PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Agenda

6:00 PM, Tuesday, September 19, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

The in-person meeting will be held in the **Council Chambers**. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: youtube.com/provocitycouncil and facebook.com/provocouncil. If one platform is unavailable, please try the other. If you do not have access to the Internet, you can join via telephone following the instructions below.

TO MAKE A VIRTUAL PUBLIC COMMENT:
To participate in the public comment portion(s) of the meeting, call in as an audience member as the presentation is wrapping up. Be sure to mute/silence any external audio on your end to reduce feedback (if you are viewing the live proceedings on YouTube, mute the YouTube video; you will be able to hear the meeting audio through the phone while you are on the line).

Press *9 from your phone to indicate that you would like to speak. When you are invited to speak, the meeting host will grant you speaking permission, calling on you by the last four digits of your phone number. Please begin by stating your first and last name, and city of residence for the record. After you have shared your comment, hang up. If you wish to comment on a later item, simply re-dial to rejoin the meeting for any subsequent comment period(s).

September 19 Council Meeting: Dial 346 248 7799. Enter Meeting ID 837 4325 2879 and press #. When asked for a participant ID, press #. To join via computer, visit zoom.us and enter the meeting ID and passcode: 034278.

Decorum

The Council requests that citizens help maintain the decorum of the meeting by turning off electronic devices, being respectful to the Council and others, and refraining from applauding during the proceedings of the meeting.

Opening Ceremony

Roll Call

Prayer

Pledge of Allegiance

Presentations, Proclamations, and Awards

1. Employee of the Month - September

Public Comment

Fifteen minutes have been set aside for any person to express ideas, concerns, comments, or issues that are not on the agenda:

Please state your name and city of residence into the microphone.
Please limit your comments to two minutes.
State Law prohibits the Council from acting on items that do not appear on the agenda.

Action Agenda

2. A presentation reviewing the Consolidated Annual Performance and Evaluation Report (CAPER). (23-027)

3. A resolution to place a 0.353 acre parcel of ground located generally at 3110 West (Lakeshore Drive) and Center Street on the surplus property list and sell it to the adjourning property owner. (23-068)

4. An ordinance amending Provo City Code regarding Performance Development Overlay Zones and Open Space Subdivisions. Citywide Application. PLOTA20230098

Redevelopment Agency of Provo

5. A discussion regarding expanding the tax increment finance agreement with the Noorda College of Osteopathic Medicine. (23-045)

Adjournment

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.org or using their contact information listed at: provo.org/government/city-council/meet-the-council

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The next Council Meeting will be held on Tuesday, October 3, 2023. The meeting will be held in the Council Chambers, 445 W. Center Street, Provo, UT 84601 with an online broadcast. Work Meetings generally begin between 12 and 4 PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are noticed at least 24 hours prior to the meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)
In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting are invited to notify the Provo Council Office at 445 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email chanderson@provo.org least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at youtube.com/ProvoCityCouncil.

Notice of Telephonic Communications

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

Notice of Compliance with Public Noticing Regulations

This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: KNEVES
Department: Mayor Office
Requested Meeting Date: 09-19-2023

SUBJECT: Employee of the Month - September

RECOMMENDATION: This is a presentation

BACKGROUND: This is an award presentation given to the Provo City Employee of the Month for September 2023.

FISCAL IMPACT:

PRESENTER'S NAME: Mayor Kaufusi / Bill Peperone

REQUESTED DURATION OF PRESENTATION: 5 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER:

September 2023 - Employee of the Month Nominee

It is with pride and appreciation that I nominate Kendra Herbert as the September Employee of the Month. Kendra consistently exhibits "Exceptional Care for an Exceptional Community." She has been employed with the city for just over three and one-half years, with the past two years as a Code Enforcement Officer in the Development Services Department. Kendra tries to connect with each person with whom she has contact. She has a unique ability to put people at ease, to help them understand what concerns exist, and what actions are required to resolve the concerns. She understands that in some cases it takes a wide variety of resources to get an issue resolved. Kendra regularly coordinates with numerous agencies throughout the city to find solutions. Some of the agencies she has worked with include Provo Police, Animal Control, Wasatch Mental Health Services, Adult Protective Services, Habitat for Humanity, and more. She truly cares for the people she serves and wants the best for them. Kendra is not afraid to roll up her sleeves and work to solve a problem or to help someone out.

As an employee of the city, Kendra demonstrates commitment and dedication. She gets her work done with quality and efficiency. She has been asked to work on cases outside of her normal area of responsibility because of her ability to get things done. She has taken additional challenges head-on and provided exceptional results. The quality of her work has been recognized by her coworkers, both within her department as well as other departments throughout the city. Kendra is truly an invaluable part of our team.

Some of Kendra's peers expressed their support for her like this –

"She has gone above and beyond her normal expected duties to ensure not only that the property owners come into compliance, but to ensure they have access to resources they need. She has been sensitive to individuals' health issues/concerns, while at the same time encouraging compliance to City Code. She truly cares about the people she works with. She is a great example of providing Exceptional Care for our Exceptional Community."

"Frankly, I was flat-out amazed at the work Kendra did!"

"My only hesitation is Kendra deserves employee of the year!"

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MMCNALLEY
Department: Development Services
Requested Meeting Date: 09-19-2023

SUBJECT: A presentation reviewing the Consolidated Annual Performance and Evaluaotion Report (CAPER). (23-027)

RECOMMENDATION: Review of the Consolidated Annual Performance and Evaluation Report/ Public hearing for feedback of accomplishments

BACKGROUND: Request approval of the reporting of accomplishments with the CDBG and HOME grant funding to the Department of Housing and Urban Development and take public comment.

FISCAL IMPACT: N/A

PRESENTER'S NAME: Melissa McNalley, Community Grant Administrator

REQUESTED DURATION OF PRESENTATION: 10-15 Minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-027

PROVO CITY

Consolidated Annual Performance And Evaluation Report

2022-23 Program Year
2022 Federal Fiscal Year

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Executive Summary

Provo City is committed to seeking out opportunities to provide more affordable housing, supporting organizations that provide essential social services to low- and moderate-income individuals, enabling the creation of better living environments, and creating economic opportunities.

This Consolidated Annual Performance and Evaluation Report (CAPER) is prepared in accordance with Federal Regulations 24 CFR part 570 for the period of July 1, 2022, through June 30, 2023. This represents the third year of the 2020-2024 Consolidated Plan. The CAPER is a description of the activities conducted during the program year with the entitlement funding from the Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG), the Home Investment Partnership (HOME), American Rescue Plan (HOME-ARP) and the CARES Act appropriated CV (COVID) funding received by Provo City under CDBG-CV. The Projects and activities reported in the CAPER principally benefit low-and moderate-income residents of the City.

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CR-05 - Goals and Outcomes – *91.520(a), 91.520(g)*

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

Progress was made in providing services for special needs groups. Most of our partners expended their 2022-23 award amounts in serving victims of domestic violence, providing health care services, providing literacy and job coaching services, providing meals for the homeless population, food bank services, and education programs to end systemic poverty.

Provo was able to make progress on economic development goals with both Commercial Façade and CDBG-CV small business funding. In the program year 2022-23, thirty-eight (38) small businesses were assisted supporting the creation/retention of 328 jobs, surpassing our strategic plan goal as well as the 2019 COVID funding goal.

Work is moving forward on the improvements around the transit-oriented development at the Frontrunner Station, which will provide connectivity to transit for individuals using active transportation it is anticipated that a pedestrian bridge will be complete by October 2023 and other improvements completed within the 23-24 program year.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

We continue to explore ways to market our small homeowner rehab projects. We completed one Egress Window activity and three emergency repair activities.

The Façade program for small businesses was recently expanded to assist small businesses city-wide. We were able to complete one Façade activity with a few more that will be completed in the 23-24 program year. We are working on marketing to the entire city to ensure more businesses are aware of this opportunity.

The rental housing project expected to be completed by the end of June 2023, is working through some last building requirements

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to obtain their certificate of occupancy. We expect to receive the leasing lists by the end of September 2023.

The housing market remains slow and largely unaffordable to low- and moderate-income households. The continued high cost of housing and rising interest rates has made home buying more difficult. Our down payment assistance programs were both adjusted at the beginning of the 22-23 program year to allow more financial assistance to first-time home buyers. Even with the additional assistance we were only able to provide 11 down payment assistance loans, 8 throughout Utah County and 3 within Provo City. City leaders continue to look at different viable solutions to help create homeownership and provide affordable housing.

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Economic Development	Non-Housing Community Development	CDBG: $	Facade treatment/business building rehabilitation	Business	15	3	20%	2	1	50%
Economic Development	Non-Housing Community Development	CDBG: $	Jobs created/retained	Jobs	20	356	1780%	4	328	100%
Economic Development	Non-Housing Community Development	CDBG: $	Businesses assisted	Businesses Assisted	10	43	430%	2	38	100%
Homeownership	Affordable Housing	CDBG: $/HOME: $	Public service activities for Low/Moderate Income Housing Benefit	Households Assisted	0	11		0	11	
Homeownership	Affordable Housing	CDBG: $ / HOME: $	Homeowner Housing Added	Household Housing Unit	20	17	85.00%	5	11	220.00%

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Homeownership	Affordable Housing	CDBG: $ / HOME: $	Homeowner Housing Rehabilitated	Household Housing Unit	40	23	58%	10	5	50.00%
Homeownership	Affordable Housing	CDBG: $ / HOME: $	Direct Financial Assistance to Homebuyers	Households Assisted	150	50	33%	35	11	31%
Public Facilities	Non-Housing Community Development	CDBG: $	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	27750	20237	72.92%	6907	7448	107.83%
Public Services	Homeless Non-Homeless Special Needs Non-Housing Community Development	CDBG: $	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	50315	19351	38.46%	4587	6568	143.19%
Public Services	Homeless Non-Homeless Special Needs Non-Housing Community Development	CDBG: $	Homeless Person Overnight Shelter	Persons Assisted	0	0		0	0	

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Rental Housing	Affordable Housing	HOME: $	Rental units constructed	Household Housing Unit	85	0	0.00%	0	0	
Rental Housing	Affordable Housing	HOME: $	Tenant-based rental assistance / Rapid Rehousing	Households Assisted	15	0	0.00%	0	0	

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

Priority funding for the 22-23 Program Year followed the 2020-2024 Consolidated Plan. Funding was directed to assist organizations that provide services to populations with special needs, programs that address the needs of aging housing, organizations that provide healthcare services as well as health education, improvement and creation of public facilities and improve the visibility of small business storefronts in the Business District as well as support small local businesses through mentoring and technical assistance.

Reallocated COVID funding was used to support meals for seniors, and work is underway for the South Franklin Community Center to increase program opportunities in a predominantly low-income neighborhood.

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Provo City continues to work with Consortium members to look for affordable housing solutions throughout the county. In the 22-23 program year the City made changes to down payment assistance programs to assist in closing the housing gap for first-time homebuyers.

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CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted). 91.520(a)

	CDBG	HOME
White	6,743	64
Black or African American	379	0
Asian	182	0
American Indian or American Native	121	0
Native Hawaiian or Other Pacific Islander	196	0
Total	**7621**	**64**
Hispanic	1940	5
Not Hispanic	5681	59

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Table 2 is representative of the race and ethnicities that were served with CDBG and HOME funding.

Provo City strives to provide services and opportunities to all ethnicities. While all the homeowners assisted with HOME funding were white, the City does provide marketing materials in Spanish for homebuyer programs. We will continue to look for ways to reach out to all community members and strive to make all programs equitable.

Census tract data is included as an appendix for those projects identified as area benefit (300 S Park and Franklin Neighborhood improvements) to show demographic data for those areas.

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CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	1,934,852	1,850,020
HOME	public - federal	2,303,223	520,837
HOPWA	public - federal	0	0
ESG	public - federal	0	0

Table 3 - Resources Made Available

Table 3 represents a combination of grant funds, unspent funds from prior years, and program income made available for the year. The amount expended reflects funding expended during the program year. Most of the unexpended funding is for larger capital projects and housing projects.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description

Table 4 – Identify the geographic distribution and location of investments

Provo City does not currently have any locally targeted areas.

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Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

The HOME investment Partnership Program requires a 25% match. Provo City ensures that match requirements are met through the leverage capacity of subrecipients. In the 2022-23 program year there were no funds matched as there were no new projects completed. The down payment assistance programs that are run through Provo City both require the homebuyers put $1,000 of their own cash down for the home.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	13,350,414
2. Match contributed during current Federal fiscal year	0
3.Total match available for current Federal fiscal year (Line 1 plus Line 2)	13,350,414
4. Match liability for current Federal fiscal year	953,117
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	12,397,297

Table 5 – Fiscal Year Summary - HOME Match Report

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Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	Date of Contribution	Cash (non-Federal sources)	Foregone Taxes, Fees, Charges	Appraised Land/Real Property	Required Infrastructure	Site Preparation, Construction Materials, Donated labor	Bond Financing	Total Match

Table 6 – Match Contribution for the Federal Fiscal Year

HOME MBE/WBE report

Program Income – Enter the program amounts for the reporting period				
Balance on hand at beginning of reporting period $	Amount received during reporting period $	Total amount expended during reporting period $	Amount expended for TBRA $	Balance on hand at end of reporting period $
$1,503,457	$317,494	$412,244		$1,408,707

Table 7 – Program Income

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Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	**Minority Business Enterprises**				**White Non-Hispanic**
		Alaskan Native or American Indian	**Asian or Pacific Islander**	**Black Non-Hispanic**	**Hispanic**	
Contracts						
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0
Sub-Contracts						
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0

	Total 0	**Women Business Enterprises**	**Male 0**
Contracts			
Number	**0**	**0**	**0**
Dollar Amount	**0**	**0**	**0**
Sub-Contracts			
Number	**0**	**0**	**0**
Dollar Amount	**0**	**0**	**0**

Table 8 - Minority Business and Women Business Enterprises

Provo City did not complete any HOME funded projects that used or required any Section 3 or Women owned business.

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Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	**Minority Property Owners**				**White Non-Hispanic**
		Alaskan Native or American Indian	**Asian or Pacific Islander**	**Black Non-Hispanic**	**Hispanic**	
Number	**0**	**0**	**0**	**0**	**0**	**0**
Dollar Amount	**0**	**0**	**0**	**0**	**0**	**0**

Table 9 – Minority Owners of Rental Property

Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition		
Parcels Acquired	**0**	**0**
Businesses Displaced	**0**	**0**
Nonprofit Organizations Displaced	**0**	**0**
Households Temporarily Relocated, not Displaced	**0**	**0**

Households Displaced	**Total**	**Minority Property Enterprises**				**White Non-Hispanic**
		Alaskan Native or American Indian	**Asian or Pacific Islander**	**Black Non-Hispanic**	**Hispanic**	
Number	**0**	**0**	**0**	**0**	**0**	**0**
Cost	**0**	**0**	**0**	**0**	**0**	**0**

Table 10 – Relocation and Real Property Acquisition

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CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	30	15
Number of Special-Needs households to be provided affordable housing units	0	0
Total	**30**	**15**

Table 11 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	7	0
Number of households supported through Rehab of Existing Units	17	4
Number of households supported through Acquisition of Existing Units	6	11
Total	**30**	**15**

Table 12 – Number of Households Supported

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Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

Provo City continues to look for ways to help provide affordable housing. Housing prices compounded by higher interest rates and construction costs continue to make homeownership unattainable for many residents. Provo will continue to evaluate programs and implement

changes where possible to further housing goals.

Discuss how these outcomes will impact future annual action plans.

Provo City and the Utah Valley HOME Consortium will continue to prioritize affordable housing for all residents, especially vulnerable populations.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	3	0
Low-income	0	1
Moderate-income	1	10
Total	**4**	**11**

Table 13 – Number of Households Served

Due to the prohibitive costs of housing and rising interest rates, it is difficult even for moderate income families to obtain housing. The HOME funds used throughout the 22-23 year were used for down-payment assistance for the purchase of a new home. Through the CDBG programs, we are able to assist lower income households.

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CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Utah Valley HOME Consortium represented by staff from the Lead Entity—Provo City participates in the Mountainlands Continuum of Care. Working together to improve relationships among agencies serving homeless populations.

A list, by name, of unsheltered homeless individuals is maintained, and a subcommittee meets regularly to discuss their individual needs and possible housing placements. The subcommittee is comprised of service agencies including Wasatch Behavioral Health, Food & Care Coalition, Community Action Services and Food Bank, United Way, Provo City Housing Authority, Housing Authority of Utah County, domestic violence service providers and representatives for homeless veterans.

Provo City provides funding for programs designed to give aid to the homeless population through non-profit partners.

Addressing the emergency shelter and transitional housing needs of homeless persons

Provo City addresses emergency shelter and transitional housing needs of homeless families and individuals through the funding of agencies that provide transitional and supportive housing, mentoring, and case management to victims of domestic and sexual abuse.

In the 2022-23 Program Year, Provo City on behalf of the Utah Valley HOME Consortium completed their HOME-ARP Plan. The focus of the activities is for funding to be used for supportive services and tenant-based rental assistance to help close the gaps in services for these vulnerable populations.

Recently, the State of Utah passed a bill for cities and counties to provide emergency overnight shelter specifically during the colder winter months. Provo City is working with the Mountainlands Continuum of Care to make sure there is winter shelter in place throughout the winter.

There are two transitional housing programs, Food and Care Coalition and The Refuge (previously known as the Center for Women and Children in Crisis-WCIC). Both programs operate at capacity and house individuals for up to a year, or longer if needed, as is the case with providers of housing for domestic violence individuals.

Helping low-income individuals and families avoid becoming homeless, especially extremely

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low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

Community Action Services and Food Bank has funding to assist in eviction prevention rental assistance and diversion practices. Additionally, Provo City participates in raising funds and directing the use of a "Housing First Fund" that helps with diversion activities that help keep individuals and families from losing their housing.

a) The Discharge Committee is a subcommittee in the Continuum of Care (CoC) that meets regularly with jail/prison outreach programs/employees and hospital employees to help inform policies that prevent individuals from being discharged into homelessness.

b) One of the tools to assist with this is 211, a program whose personnel are trained specifically in diversion to help people from becoming homeless for the first time. 211 is often the first point of contact for individuals who are precariously housed and/or receiving assistance. Diversion focuses on helping the individual find resources within the community or within their own support network and may involve a social worker/case manager helping to negotiate on behalf of the individual at risk of becoming homeless. Additionally, agency partners in the CoC work together to address the individual needs of those who are precariously housed to avoid homelessness.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Provo City provides funding to both Community Action and Food and Care Coalition for their programs aimed at holistic efforts to prevent homelessness and chronic homelessness. Both organizations offer counseling and classes to help individuals and families overcome barriers to permanent housing.

Another tool for success is the permanent supportive housing program offered in our community. Twice a month the individuals included in the by-name list are discussed in the subcommittee and identified into subpopulations of chronically homeless, veterans, and homeless youth. They are referred for permanent supportive housing placement depending on vulnerability. Once placed, wrap-around services continue with the individual in their own housing units until the barriers that led to homelessness are resolved. As new units of permanent supportive housing are made available in the

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program, individuals are placed quickly according to the severity of their needs.

The City works towards reducing the gap in a number of socioeconomic indicators, such as improving housing affordability, school readiness of young children, employment skills of at-risk adults, access to transportation for low-income households, and economic diversity within neighborhoods. This progress should lead to more opportunity for lower-income individuals. Vulnerable populations continue to need an extensive support system to ensure access to critical resources, services, and housing assistance. The most vulnerable population include victims of domestic violence, low-income elderly persons, persons with disabilities, families experiencing homelessness, and the chronically homeless. The City partners with local agencies in seeking ways to increase affordable housing units, and access to these units. The partnership with Provo City Housing Authority for the project at 85 East 100 North will provide much needed units for elderly and individuals with disabilities.

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CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

Both the Utah County Housing Authority and Provo City Housing Authority continue to search for sites for the building and development of affordable housing. With the increased housing costs in Utah County, this is a daunting task. There were no applications for funding for specific housing projects in the past year. We continue to work with both Housing Authorities to look for affordable housing solutions.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

Both housing authorities have programs to encourage self-sufficiency for participants. Some programs allow for rental increases to be set aside in escrow accounts which are most often used as a down payment on a home.

Feedback is encouraged from clients on agency performance. Clients are invited to attend annual meetings where they can provide input on agency goals and other discussions.

Actions taken to provide assistance to troubled PHAs

Neither the Provo City Housing Authority nor the Housing Authority of Utah County is a troubled Public Housing Authority.

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CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

Provo City Council is actively looking at different solutions to affordable housing in Provo City. A council appointed housing committee meets monthly to look at policy and review and suggest changes. Currently this Committee is working on an Ordinance Text Amendment to allow for the expansion of Accessory Dwelling Units within the City.

The City is also beginning work on State mandated Station Area Plans around transit hubs to create strategies for more affordable housing.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

One of the biggest underserved needs is affordable housing and emergency shelter/supportive housing. The City supports non-profits providing housing for first-time homebuyers through Rural Housing Development Corporation (Self-Help Homes) as well as administrating programs for down-payment assistance.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

Provo City consistently conducts lead-based paint testing on home purchases and any rehabilitation work done for both commercial and residential structures built prior to 1978 and abate as needed.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

Provo City provides funding through its CDBG grant to Community Action Services and Food Bank of Utah County (CASFB) for the “Circles” program which focuses on mentoring individuals and families experiencing poverty to become self-reliant. To promote this program CASFB also offered four half day courses of the “Bridges Out of Poverty” course. While not all attendants result in clients joining the Circles program, the courses help inform local leaders and volunteers and give them tools to provide support to families in the community.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

Provo City staff continues to enhance education on subjects pertaining to CDBG and HOME programs through training at the HUD Exchange website.

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The Cities of Provo and Orem maintain an ongoing discussion in their four joint council meetings to discuss ways to increase affordable housing, including policy changes to provide incentives for developers to engage and invest.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

Provo City participates with the Continuum of Care as well as collaborating with Lehi City, Orem City, and Utah County to provide increased levels of cooperation to address housing needs and social service concerns. Provo City is also working with Provo City Housing Authority in efforts to find land purchase opportunities which would enable more transitional and supportive housing.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

The impediments to fair housing choice as identified in the 2019 Provo City and Utah Valley HOME Consortium Consolidated Plan are as follows:

1. Supply of Rental Units for Large Families. Utah County has young and large families. About 33% of these families are considered large. As the trend of large families continues to increase, rental units for these families are in greater demand.

No Actions Taken

2. Limited Land for Development. Moderate-income households cannot afford to live far from work and shopping. Though there is available land, it is mostly concentrated in the western portions of Provo City and the County.

Development on the West portion of Provo City is increasing rapidly. While there is a desire for a mixture of housing types, there are options available for moderate-income families in these new developments.

3. Construction Costs. This barrier has increased even more after the Pandemic, raw materials for construction have increased over 19.4% in the last 12 months.

No Actions Taken

4. Zoning. Although most municipalities in Utah County are moving toward public policies that help with the housing burdens of the area, there continues to be fees, assessments, and zoning regulations that disincentivize construction of low- and moderate-income housing. Additionally, more incentives for the construction and set-aside of moderate-income housing should be established.

DRAFT

Through the Redevelopment Agency of Provo City, moderate-income and affordable housing units are incentivized through tax increment financing.

5. Hispanic and other Minority Loan denials.

Provo City ensures that home-buyer materials are available in the Spanish and available in the department lobby and online. We will look at distributing materials to community partners to help better educate these populations on available assistance.

6. Continued High Rents and Sales Prices. Supply continues to be outpaced by demand in the Utah County housing industry. Even during the course of researching and conducting this analysis, sales prices continued to rise.

The Redevelopment Agency of Provo City has established agreements with developers to require a percentage of affordable rental units within the new developments. There is currently a large development under construction.

DRAFT

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements.

During PY2022 Provo City conducted virtual monitoring sessions to evaluate funded projects progress toward contracted goals and expenditures. Agencies are required to submit regular quarterly program activity, financial and contractual compliance reports. This information was used to monitor program activity and contract compliance. Timely expenditure of funds is a component of these monitoring activities.

Staff conducted virtual reviews of Subrecipients and Contractors with current contracts and provided technical assistance on several varied issues to both CDBG and HOME programs.

A standard practice is to operate CDBG and HOME funds on a reimbursement basis, thus ensuring that a desk review of proposed expenditures is performed to verify that contract and federal regulations are being met.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The public is encouraged to participate in helping determine priorities, comment on the use of funding and review progress of CDBG and HOME funded projects. This happens through public notice, social media posts, the department webpage, and outreach from the Council Office through the Neighborhood Program.

DRAFT

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

There are no changes in the City's program objectives.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

N/A

DRAFT

CR-50 - HOME 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations.

Please list those projects that should have been inspected on-site this program year based upon the schedule in §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

On-Site inspections of rental housing are performed every other year in even years during the monitoring process using the HQS checklist. The next on-site property inspection was due in the spring of 2020. Since the COVID-19 Pandemic there have been no on-site inspections conducted. Provo City is currently working with both housing authorities to resume inspections beginning in September of 2023.

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 92.351(b)

Program brochures are translated and available in Spanish. Additionally, all subrecipients of Provo City and the Utah Valley HOME Consortium are required to follow affirmative marketing through written agreements.

Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics.

In the 22-23 Fiscal year, a total of $412,244.37 of program income was used. All the funding was used in first time homebuyer down payment assistance programs. Of those assisted, all identified as white non-Hispanic. One of the households assisted was low-income and ten households were moderate income households.

Describe other actions taken to foster and maintain affordable housing. 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 91.320(j)

The Provo City Housing Authority designed a rental housing project at 85 N 100 E Provo. This project sought and was awarded LIHTC funding to develop 74 rental units. Construction on the project is complete and the Certificate of Occupancy is expected in September 2023.

DRAFT

CR-58 – Section 3

Identify the number of individuals assisted and the types of assistance provided.

Total Labor Hours	CDBG	HOME	ESG	HOPWA	HTF
Total Number of Activities	3	0	0	0	0
Total Labor Hours	10,675	0	0	0	0
Total Section 3 Worker Hours	4,055	0	0	0	0
Total Targeted Section 3 Worker Hours	756	0	0	0	0

Table 14 – Total Labor Hours

Qualitative Efforts - Number of Activities by Program	CDBG	HOME	ESG	HOPWA	HTF
Outreach efforts to generate job applicants who are Public Housing Targeted Workers	0	0	X	X	X
Outreach efforts to generate job applicants who are Other Funding Targeted Workers.	0	0	X	X	X
Direct, on-the job training (including apprenticeships).	1	0	X	X	X
Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.	0	0	X	X	X
Technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).	0	0	X	X	X
Outreach efforts to identify and secure bids from Section 3 business concerns.	0	0	X	X	X
Technical assistance to help Section 3 business concerns understand and bid on contracts.	0	0	X	X	X
Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.	0	0	X	X	X
Provided or connected residents with assistance in seeking employment including: drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.	0	0	X	X	X
Held one or more job fairs.	0	0	X	X	X
Provided or connected residents with supportive services that can provide direct services or referrals.	0	0	X	X	X
Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.	0	0	X	X	X
Assisted residents with finding child care.	0	0	X	X	X
Assisted residents to apply for or attend community college or a four year educational institution.	0	0	X	X	X
Assisted residents to apply for, or attend vocational/technical training.	0	0	X	X	X
Assisted residents to obtain financial literacy training and/or coaching.	0	0	X	X	X
Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.	0	0	X	X	X
Provided or connected residents with training on computer use or online technologies.	0	0	X	X	X
Promoting the use of a business registry designed to create opportunities for disadvantaged and small businesses.	0	0	X	X	X
Outreach, engagement, or referrals with the state one-stop system, as designed in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.	0	0	X	X	X
Other.	0	0	X	X	X

Table 15 – Qualitative Efforts - Number of Activities by Program

DRAFT

Narrative:

Section 3 projects in the 2022-23 year were Provo Parks Plaza, Franklin Neighborhood improvements, and the Duncan Aviation project which is part of Section 108 loan reporting. Of those jobs, Duncan Aviation is the only one to provide direct on-the-job training.

DRAFT

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WELCOME HOME

Consolidated Annual Performance and Evaluation Report (CAPER) 22-23 Fiscal Year

What is the CAPER?

The Consolidated Annual Performance and Evaluation Report is an accounting of Federal funds expended through the Community Development Block Grant and HOME Investment Partnership programs and what Provo City and the Utah Valley HOME Consortium accomplished with those funds. This is a HUD required Report that we submit each year.

Projects underway in the 22-23 Fiscal Year:

- CDBG
  - Emergency Home Repair
  - Egress Windows
  - Public Works – Frontrunner Pedestrian Bridge
  - Non-Profit – Capital Improvements
  - Non-Profit – Social Services
  - Small Business Assistance
  - Public Works Franklin Neighborhood Improvements
  - 300 S University Plaza Project

Projects underway in the 22-23 Fiscal Year Cont'd:

- HOME:
  - Provo Down Payment Assistance
  - County-Wide Down Payment Assistance
  - Orem Senior Housing Project
  - Affordable Rental Housing

This is what we accomplished:

Economic Development -

- 328 Jobs-created/retained
- 37 Small Businesses Assisted

Homeownership –

- 11 Homeowner houses added
- 4 Homeowner houses rehabilitated
- 11 Financial assistance to first-time Homebuyers

CDBG Public Service Accomplishments:

- Infrastructure improvements for Public Facilities benefiting – 7,448 Low- and Moderate-income individuals.
- Services provided for Victims of Domestic Violence benefiting – 2792 people
- Employment Training Services provided to – 378 people
- Health Services provided to – 1307 people
- Meals/Food services provided to – 515 people
- After School programs – 929 children
- Services for Individuals with Disabilities – 245 people
- Other various services provided to – 401 people

Overall Progress toward 5-year plan goals:

Goals	Homeowner Housing added	Homeowner Housing Rehabilitated	Direct Financial Assistance	Rental Units Constructed	Tenant-Based rental Assistance	Public Fac. Infrastructure	Public Service Activities other than LMI housing	Business Assisted	Façade Treatment	Jobs Created
Expected 5 Year	**20**	**40**	**150**	**85**	**15**	**27,750**	**50,315**	**10**	**15**	**20**
20-21 Year 1	2	10	24	-	-	7,826	774	2	2	11
21-22 Year 2	4	9	15	-	-	4,960	12,009	3	-	17
22-23 Year 3	11	4	11	-	-	7,448	6,568	37	1	328
23-24 Year 4										
24-25 Year 5										
Totals	**17**	**23**	**50**	-	-	**20,234**	**19,351**	**42**	**3**	**356**
% of Completion	**85.00%**	**57.50%**	**33.33%**	**0.00%**	**0.00%**	**72.92%**	**38.46%**	**420.00%**	**20.00%**	**1780.00%**



PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: TARAR
Department: Development Services
Requested Meeting Date: 09-19-2023

SUBJECT: A resolution to place a 0.353 acre parcel of ground located generally at 3110 West (Lakeshore Drive) and Center Street on the surplus property list and sell it to the adjourning property owner. (23-068)

RECOMMENDATION: This is a remnant parcel of ground from the construction of 3110 West (known as Lakeshore Drive) at Center Street. It is recommended that this parcel be surplused and sold to the adjoining property owner.

BACKGROUND: This property, which was part of a larger parcel, was acquired from KBO Limited Partnership in April of 2009 for the expansion of 3110 West (known as Lakeshore Drive). Once the road was designed and constructed, it left this 0.353 acre parcel of ground as a remnant parcel. A departmental review has been completed and it has been determined that this remnant parcel has no functional use for the city and should be surplused and sold. This parcel was acquired using Corridor Preservation Funds from MAG, so the revenue will be reimbursed to MAG.

FISCAL IMPACT: $55,500 which will be reimbursed to MAG.

PRESENTER'S NAME: Tara Riddle

REQUESTED DURATION OF PRESENTATION: 10 Minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
The surplus and sale of this property is compatible with the general plan, policies, goals, and objectives of Provo City.

CITYVIEW OR ISSUE FILE NUMBER:

RESOLUTION 2023 -

Approved as to form: ___

A RESOLUTION TO PLACE A 0.353 ACRE PARCEL OF GROUND LOCATED GENERALLY AT 3110 WEST (LAKESHORE DRIVE) AND CENTER STREET ON THE SURPLUS PROPERTY LIST AND SELL IT TO THE ADJOINING PROPERTY OWNER. (23-068)

WHEREAS, Provo City (the "City") owns a 0.353 acre parcel of ground located generally at 3110 West (Lakeshore Drive) and Center Street and identified as a portion of Utah County Tax ID # 21:034:0109, which is further described in Exhibit A and depicted in Exhibit B; and,

WHEREAS, this property is vacant and has not been identified for future use by Provo City; and

WHEREAS, Provo City is desirous of selling this property to the adjoining property owner; and

WHEREAS, the Mayor has recommended that this parcel be placed on the surplus property list and sold subject to the conditions set forth in Provo City Code 3.04.030; and

WHEREAS, on September 19, 2023, the Municipal Council held a duly noticed public meeting to receive public comment and ascertain the facts regarding this matter, which facts and comments are found in the meeting record; and,

WHEREAS, after considering the Mayor's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the real Property described in Exhibit A should be added to the Surplus Property List for sale subject to the conditions set forth below, and (ii) the sale of such Property reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

1. The real Property described in the attached Exhibit A is hereby placed on the Surplus Property list and the Mayor is authorized to dispose of the property by selling the property subject to the conditions set forth in Provo City Code 3.04.030.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

EXHIBIT A

PROVO CITY TO SUNSHINE GREENHOUSES INC.

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, LOCATED IN PROVO, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

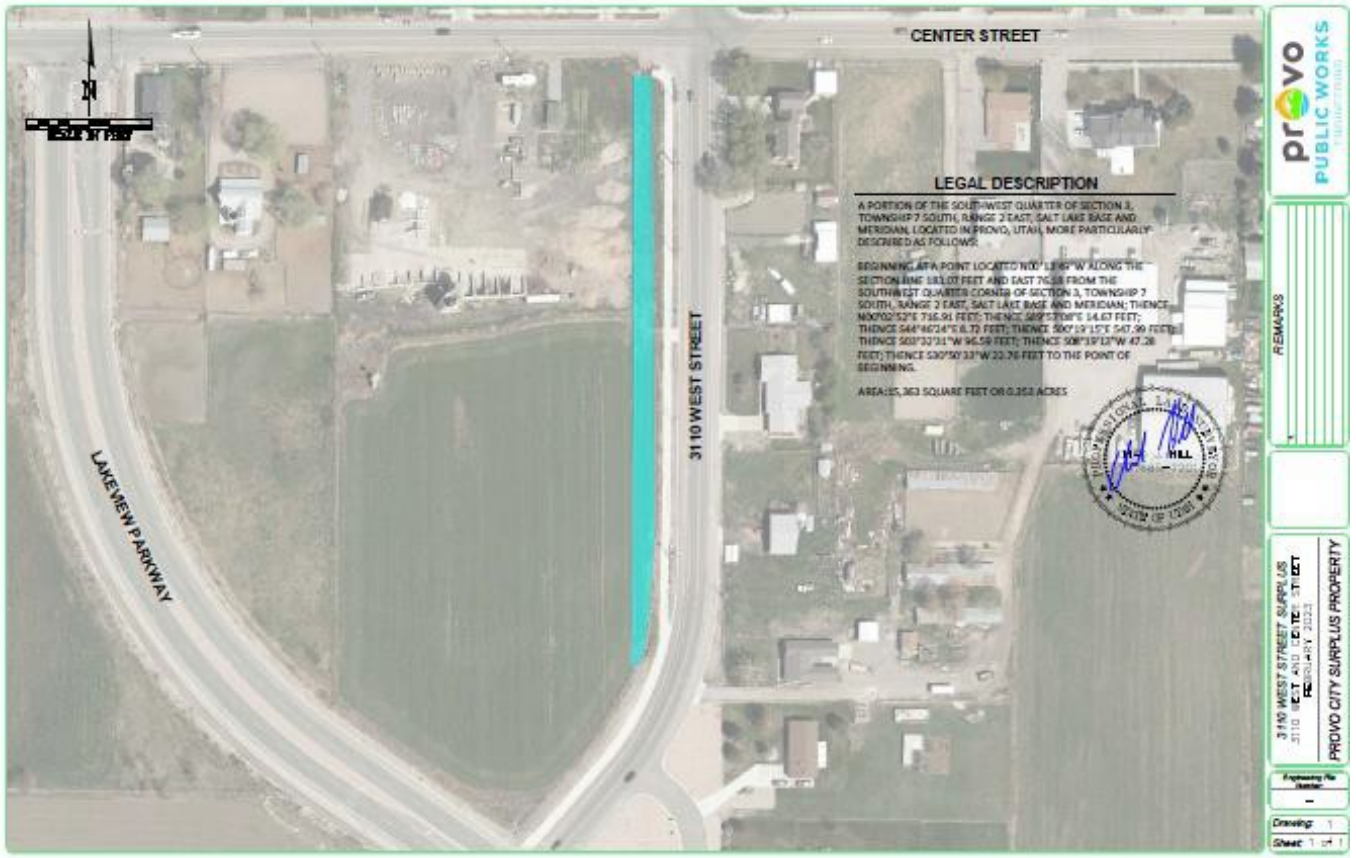
BEGINNING AT A POINT LOCATED N00°13'49"W ALONG THE SECTION LINE 183.07 FEET AND EAST 76.18 FROM THE SOUTHWEST QUARTER CORNER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE N00°02'52"E 716.91 FEET; THENCE S89°57'08"E 14.67 FEET; THENCE S44°46'24"E 8.72 FEET; THENCE S00°19'15"E 547.99 FEET; THENCE S03°32'31"W 96.59 FEET; THENCE S08°19'13"W 47.28 FEET; THENCE S30°50'33"W 22.76 FEET TO THE POINT OF BEGINNING.

AREA: 15,363 SQUARE FEET OR 0.353 ACRES



This description was generated by C.HILL, PLS on 2/16/2023 at 8:14 AM, based on geometry in the drawing file Q:\Public Works\Engineering\CHILL\2022\3110 West Street Vacation\3110 Street Vacation.dwg.

EXHIBIT B


CENTER STREET
3110 WEST STREET
LAKEVIEW PARKWAY
LEGAL DESCRIPTION
A PORTION OF THE SOUTH-WEST QUARTER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, LOCATED IN PROVO, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT LOCATED N00°13'45"W ALONG THE SECTION LINE 183.07 FEET AND EAST 76.58 FROM THE SOUTH-WEST QUARTER CORNER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE N00°00'53"E 716.91 FEET; THENCE S89°57'09"E 14.67 FEET; THENCE S44°46'24"E 6.72 FEET; THENCE S00°19'15"E 547.99 FEET; THENCE S03°32'31"W 96.59 FEET; THENCE S08°19'12"W 47.28 FEET; THENCE S30°50'33"W 22.76 FEET TO THE POINT OF BEGINNING.
AREA: 15,363 SQUARE FEET OR 0.353 ACRES
provo
PUBLIC WORKS
REMARKS
3110 WEST STREET SURPLUS
PROVO CITY SURPLUS PROPERTY

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 09-19-2023

SUBJECT: An ordinance amending Provo City Code regarding Performance Development Overlay Zones and Open Space Subdivisions. Citywide Application. PLOTA20230098

RECOMMENDATION: To be heard at the September 19, 2023 Work & Council meeting. Please see supporting documents.

BACKGROUND: The Planning Division of Development Services is bringing forward some proposed amendments to the Provo City Code regarding "Open Space" subdivisions and "Performance Development" subdivisions, in Chapters 14.31 and 15.04.

FISCAL IMPACT:

PRESENTER'S NAME: Aaron Ardmore (801) 852-6404 aardmore@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLOTA20230098

ORDINANCE 2023-.

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING PERFORMANCE DEVELOPMENT OVERLAY ZONES AND OPEN SPACE SUBDIVISIONS. CITYWIDE APPLICATION. (PLOTA20230098)

WHEREAS, it is proposed that Provo City Code Chapters 14.31 and 15.04 be amended; and

WHEREAS, on August 23, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 7:0; and

WHEREAS, on September 19, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Chapter 14.31 is hereby amended as set forth in Exhibit A.

PART II:

Provo City Code Chapter 15.04 is hereby amended as set forth in Exhibit B.

PART III:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

Chapter 14.31
PD - PERFORMANCE DEVELOPMENT OVERLAY ZONE

Sections:

14.31.010 **Purpose and Objectives.**
14.31.020 **Definitions.**
14.31.030 **Use In Combination.**
14.31.040 **Zones With Which the Planned Development Zone May Be Combined.**
14.31.050 **Permitted Uses.**
14.31.060 **Variations to Underlying Zone Permitted.**
14.31.070 **Density Determination.**
14.31.080 **Minimum Performance Standards.**
14.31.090 **Density Bonus.**
~~**14.31.100** **Density Bonus Calculations.**~~
14.31.~~110~~100 **Density Bonus Features ~~Design Requirements.~~**
14.31.~~130~~110 **Concept Plan Approval.**
14.31.~~140~~120 **Final Project Plan Approval.**
14.31.~~150~~130 **Guarantees and Covenants.**
~~**14.31.160** **Fees.**~~
14.31.~~170~~140 **Appendix.**

14.31.010
Purpose and Objectives.

(1) The purpose of the Performance Development Overlay Zone is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to insure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of Provo City.

(2) A Performance Development (PD) is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open spaces, diversity of lot design or residential use, amenities, a well-planned circulation system, and attractive entrances as part of the design. ~~The incorporation of one (1) or two (2) of these elements~~

~~into a development does not make a PD. The combination of all these elements is necessary for the development of a PD.~~

14.31.020
Definitions.

For the purposes of this Chapter, certain words and phrases have the following meanings:

"Alley" means a public or private vehicular street designed to serve as secondary access to the side or rear of properties whose principal frontage is on some other street. See Chapter 15.03, Provo City Code.

"Base density" means the maximum number of residential units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied.

"Bonus density" means the maximum number of residential units per developable acre in the PD allowed when the project complies with the bonus density design requirements of this Chapter.

~~**"Collective driveway"** means a driveway, at least twelve (12) feet in width, serving not more than two (2) lots, or two (2) residential dwelling units, or twenty (20) feet in width serving not more than two (2) lots and four (4) single residential dwelling units and not exceeding one hundred twenty (120) feet in length. Except that in hillside areas (See Section 15.08.160(5)(b), Provo City Code) a collective driveway, at least twenty (20) feet in width may extend three hundred fifty (350) feet.~~

"Developable land" means land under thirty percent (30%) slopes which is capable of being improved, subject to the provisions Chapter 15.08 of the Provo City Code, with landscaping, recreational facilities, buildings, or parking. 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 land, and must be subtracted out of the total acreage before the density calculation is made. (Access aisles in parking lots and driveways shall not be considered private streets for purposes of this Section.)

"Developed common activity area" means open green space which is designed to provide activity areas for use by all residents such as playgrounds, recreational courts, picnic pavilions, gazebos, and water features. Common developed activity areas shall be held by all residents in common ownership through a homeowners association or shall be available for use by all residents if the PD will be held in single ownership.

"Driveway" means a paved area used for ingress or egress of vehicles, and allowing access from a street to one (1) building, structure, or facility.

"Gross acreage" means the total amount of land in a PD development.

"Net acreage" means the total amount of land in a PD development excluding rights-of-way or roads.

"Open green space" means a planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership that is unoccupied and unobstructed by buildings and hard surface, such as asphalt or cement, 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.

~~**"Parking lot"** means an open area, other than a street or alley, used for the parking of more than four (4) automobiles whether for free, or for compensation. Parking spaces shall not be provided within a required front yard or side yard adjacent to the street on a corner lot.~~

"Parking lot aisle" means the traveled way by which cars enter and depart parking spaces. Aisle width standards are set forth in Section 14.37.100, Provo City Code. Parking aisles shall not be considered streets for purposes of this Chapter.

"Periphery" means a one hundred (100) foot depth around the perimeter of the project measured inward from the property line.

14.31.030
Use In Combination.

The Performance Development (PD) overlay zone may only be used in combination with existing conventional zones as designated herein, and the provisions of the performance development overlay zone shall become supplementary to the provisions of the zone with which it is combined. The PD zone shall not be applied to a land area as an independent zone. Property to which the PD zone has been applied shall be developed only in conformance with an approved ~~project~~ plan. When used in combination with the designated zones, the Performance Development zone designated (PD) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. ~~When applied to land area, said combined designation shall be shown on the Zone Map of Provo City as set forth in the following example:~~

~~Example: If the Performance Development (PD) zone were being combined with the Residential zone (R1), it would be designated on the Zone Map of Provo City as "R1(PD)."~~

14.31.040
Zones With Which the Planned Development Zone May Be Combined.

The Performance Development overlay (PD) zone may be combined with the following zones: A1, RA, R1, and R2 zones.

14.31.050

Permitted Uses.

Uses permitted in the Planned Development overlay (PD) zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the PD zone has been combined, except as follows:

(1) In one and two-family zones, dwelling units may be clustered in common-wall construction with a maximum of ~~eight (8)~~six (6) consecutively attached units. Such units may have no more than two (2) walls in common, with no units above other units.

(2) Accessory uses to the PD which are located in a common main building may be permitted. Accessory uses shall include recreational facilities and structures, day care centers, personal services, and RV parking, when approved as part of the final development plan.

~~(3) When combined with an R5 zone only, the following service and commercial uses may be allowed in conjunction with an apartment development provided said uses are located on the ground floor only, meet all of the off-street parking requirements of Chapter 14.37, Provo City Code and are approved in accordance with all of the standards and procedures of this Chapter.~~

~~Use No.~~	~~Use Classification~~
~~4811~~	~~Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4821~~	~~Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4824~~	~~Gas pressure control stations~~
~~4831~~	~~Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~

Use No.	Use Classification
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants
4841	Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)
5410	Groceries (convenience market, less than five thousand (5,000) square feet)
5814	Cafeterias, lunch counters, snack bars, etc., (non-auto oriented)
5912	Prescription pharmacy
5941-42	Books, magazines, stationery
6111	Bank branch (non-auto oriented)
6216	Self-service laundry

Use No.	Use Classification
6230	Beauty and barber services
6252	Laundry and dry cleaning (pick-up station only)
6339	Stenographic services
6500	Professional Services (except 6515)
6910	Religious activities

14.31.060

Variations to Underlying Zone Permitted.

Upon combining the PD zone with an appropriate existing zone, variations from the development standards of said underlying zone may be permitted provided the variations are specifically adopted as part of the approved project plan or approved supporting documents. Variations, however, shall not include changes in the permitted uses allowed by the zone with which the PD zone has been combined., except to the extent set forth herein.

(1) *Base Density.* The maximum number of residential units allowed per developable acre in a PD which meets only the minimum development requirements of this Chapter shall be calculated using the Lot Area Per Dwelling Requirement of the underlying zone:

ZONE	LOT AREA/DWELLING
RA	1 unit per 21,780 square feet
R1.20	1 unit per 20,000 square feet
R1.15	1 unit per 15,000 square feet
R1.10	1 unit per 10,000 square feet
R1.9	1 unit per 9,000 square feet

~~R1.8 1 unit per 8,000 square feet~~

~~R1.7 1 unit per 7,000 square feet~~

~~R1.6 1 unit per 6,000 square feet~~

~~R2 2 units per 8,000 square feet~~

~~(2) Notwithstanding the foregoing provision, in no event shall the maximum number of residential units exceed the number of units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied. Such maximum number of residential units shall be reasonably determined by the Planning Commission using development criteria and ordinance requirements applicable to the zone with which the PD is proposed to be combined.~~

~~(3) In the event an approved project plan is proposed to be amended and a density increase is requested, the Planning Commission may, subject to the requirements of this Chapter, approve such density increase; provided, however, that any density increase shall not exceed by more than ten percent (10%) the density shown on the originally approved project plan.~~

14.31.070
Density Determination.

Density in a PD shall be determined by using the “developable land” of the entire proposed development. Developable land is land under thirty percent (30%) slope which is capable of being improved with landscaping, recreational facilities, buildings, or parking. Land devoted to street usage in PD subdivisions shall not be considered developable acreage and must be subtracted out of the total acreage used to determine density. Refer to Figure 14.31.070 at the end of this Chapter.

14.31.080
Minimum Performance Standards.

A performance development established under the provisions of this Chapter shall conform to the standards and requirements of this Section. Project plans shall be approved or denied on the basis of performance measured against development standards adopted in accordance with this Chapter. ~~and on the findings made by the Planning Commission as required by Section 14.31.120(2).~~

(1) *General Standards.*

(a) *Single Ownership or Control.* The area proposed for a performance development shall be in one (1) ownership or control during development to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans. Mere development agreements between individuals shall not satisfy this requirement. Individual ownership, partnerships, corporations, and other legally recognized entities are acceptable.

(b) *Scope of Plan.* A plan for the development of a performance development shall cover the entire area proposed for development. Upon approval the development shall be strictly in accordance with the plan. Areas not proposed for development shall be designated as open space and shall conform to minimum landscaping requirements of this Chapter.

(c) *Design Team.* The final development plans shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.

(d) *Minimum Area.* The minimum land area for a performance development shall be as follows:

A1 zone	5 acres
RA zone	5 acres
R1 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~
R2 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~

(e) *Hazardous Conditions.* If located in “sensitive lands,” “high water table,” and/or “floodplain,” the project must comply with all provisions of the Sensitive Lands, Critical Hillside, and/or Floodplain sections of the Provo City Code.

(f) *Setbacks.* Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line. ~~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 development abuts a street and a minimum twenty (20) foot setback at those locations where development abuts other parcels of land outside the project. Departures from these setbacks must be justified by unique and unusual circumstances related to the site, or for reasons of improved design.~~

~~(i) Notwithstanding the above provision, if the development has subdivided one-family lots which abut other parcels of land, the specific zone regulations shall apply for rear and side yard setbacks on the subdivided lots. The required setback area shall be landscaped.~~

~~(ii) Structures shall be placed in such a way as not to impair lines-of-sight for pedestrian or vehicular traffic. Placement shall be in accordance with the provisions of Section 14.34.100, Provo City Code, Clear Vision Area - Corner Lots.~~

~~(iii) Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line.~~

~~(iv) A minimum ten (10) foot landscaped setback shall be maintained from all interior roadways.~~

~~(v) Minimum distance between main buildings in the development shall be fifteen (15) feet for single story buildings, twenty (20) feet for two story buildings, and twenty-five (25) feet for three or more stories. Refer to Figure 14.31.080(a) at the end of this Chapter.~~

(g) *Fence Height.* If fencing is proposed adjacent to a public or private street, the maximum fence height shall be three (3) feet for fences located in the required front yard and side yard setback facing a street as determined in the underlying zone. Fence heights located outside of these setbacks shall be limited to a maximum height of six (6) feet. 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:

(i) Not isolate surrounding neighborhoods;

(ii) Be consistent with the theme of the development; and

(iii) Be compatible with the neighborhood.

If fencing isolates property between the fence and the public street, the development shall provide means to ensure continued maintenance of this area. Refer to Figure 14.31.080(b) at the end of this Chapter.

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

(i) *Utilities.* All utilities shall be placed underground, including telephone, electrical, and television cables. Dwelling units under separate ownership shall have separate utility metering, unless otherwise approved by the Energy and Water Departments.

(j) *Phasing.* If the project is to be done in phases, no remnant parcels shall be created. Any land not proposed for development shall be designated as open space.

(k) *Air Quality.* The use of coal or wood burning furnaces, fireplaces or other heating devices which burn coal are prohibited unless especially equipped with devices proven to minimize air pollution.

(l) *Water Conservation.* Low volume irrigation systems with automatic controllers shall be used. Such an irrigation system includes, but is not limited to, low volume sprinkler heads, drip emitters, and bubbler emitters. A minimum of PVC schedule 40 or equivalent shall be used for main lines and under driveway areas, and a minimum of PVC schedule 200 or equivalent shall be used for lateral lines.

(2) *Compatibility Standards.*

~~(a) *Neighborhood Compatibility.* The processes set forth in the Administrative Guidelines in Section 14.31.170(A), Identifying Impacts on Compatibility, shall be followed. All issues concerning the compatibility of the project with adjacent property and the neighborhood generally shall be resolved or mitigated.~~

~~(b)~~(a) *Land Use Conflicts.* Land use conflicts that may exist between the proposed performance development and surrounding land uses shall be examined as provided in Section 14.31.140~~170(B), Guidelines Pertaining to Land Use Conflicts~~.

~~(c)~~(b) *Curb appeal.* 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 PD. 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 such waiver does not negatively impact the continuity of the existing street scape.

~~(d)~~(c) *Height.* The maximum height of buildings within the performance development shall be the same as that permitted in the underlying zone with which the PD Zone is combined. Height requirements of the adjacent zone (if more restrictive) shall apply on the periphery of the project.

~~(e) *Building Materials.* The type of exterior building material and ratio of surface coverage for the proposed facade for other than one-family dwelling units shall be similar in material and ratio of coverage to fifty-one percent (51%) of the existing residential structures adjacent to the development. (e.g. The majority of the existing buildings have the lower one-third (1/3) of the facade in brick on the front and the rest is siding, the new development shall have as a minimum one-third (1/3) of the front in brick and the rest in siding.) This provision shall not limit the use of brick in place of other material.~~

~~(f) *Size of Dwellings and Dwelling Structures.* One and two-family dwellings in the PD zone shall meet the minimum floor area requirements of the respective underlying zone, as listed in Section 14.34.310, Provo City Code. In Very Low and Low Density neighborhoods, as designated by the Provo City General Plan, no more than four (4) dwelling units shall be combined in a single multiple family or apartment dwelling structure.~~

~~(g)~~(d) *Garages.* ~~In R1 and R2 zones, r~~Required off-street parking (excluding visitor and RV parking) shall be provided as required in the underlying zone and in enclosed garages or carports that are architecturally compatible with the main structures as set forth in Section 14.34.310, Provo City Code. Carports may only be approved in those cases where the applicant demonstrates, to the satisfaction of the Commission, that carports are used predominantly in the surrounding neighborhood, and that the proposed development would still provide a more pleasant and attractive living environment than would be obtained under the conventional residential subdivision standards. When garages are provided for parking purposes within any zone, the size of garage shall be consistent with the requirements set forth in Section 14.37.100, Provo City Code.

~~(h)~~(e) *Refuse Bins.* Refuse bins shall be stored in screened enclosures which are architecturally compatible in style and materials with the character of the development. Bins shall be located so they are not visible from outside circulation routes, and so they do not restrict vehicular movement or parking.

~~(i) *Screened Parking.* Parking lots of six (6) or more spaces shall be effectively screened from public streets and adjacent property ownerships.~~

~~(j)~~(f) *Glare Reduction.* Exterior lighting shall be designed such that the light source will be sufficiently obscured to prevent excessive glare into any residential area.

(3) *Design Theme.*

(a) *Entry Statement.* 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 trees.

(b) *Visual Relief.* Attached dwelling units shall have visual relief in facade and roof line which adds variety and rhythm to the design and avoids monotonous straight lines. Refer to Figure 14.31.080(c) at the end of this Chapter.

(c) *Unified Design.* Unifying architectural and landscaping design elements shall be carried throughout the project. Therefore, detailed landscaping plans shall be submitted, along with building elevation views and floor plans. In the case of PD subdivisions, design guidelines or covenants may be substituted for building plans and individual lot landscaping plans.

(4) *Open Space.* At least ten percent (10%) of the total gross acreage in a PD must be devoted to open green space as defined in Provo City Code Section 14.31.020. Such space must be consolidated and may not count required yards and building setbacks.

~~(a) *Minimum Open Green Space.* Minimum percentages of Open Green Space (OGS) for each zone are given in the following table, assuming no density bonus is granted:~~

~~Zone~~	~~OGS~~
~~A1.1~~	~~.80~~
~~RA~~	~~.80~~
~~R1~~	~~.60~~
~~R2~~	~~.40~~

(a) Each phase of development shall provide its proportionate required open green space needed for that phase.

(b) *Hardscape.* 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.

(c) *Common Activity Areas.* At a minimum, open green space shall include either a playground with play equipment or pathways with benches and tables through a natural or planted landscaped area.

(i) Subdivided, one-family lots shall provide developed common activity area at a ratio of one thousand (1,000) square feet per lot.

(d) *Saving Existing Trees.* Developments shall be designed to incorporate existing large trees, clusters of trees or clusters of large shrubs. The Planning Commission, or a designated subcommittee, shall review the appropriateness of removal of portions of these types of vegetation if proposed in the development plan. The Commission may approve removal of some or all vegetation based on a determination of the benefits of the existing plant material and the efforts made to save and incorporate the existing plant material into the design of the project versus the problems the plant materials may create for the project in terms of general construction techniques, impact removal will have to the character of the area, the topography of the site, and harmful conditions the vegetation may create.

(i) As one of the purposes of a PD is to protect natural features, the Planning Commission may deny approval of a PD if it is determined there has been removal of trees or shrubs prior to submittal.

(e) *Landscaping Per Unit.* A minimum of three (3), one and one-half (1 1/2) inch caliper deciduous trees or four (4) foot tall evergreen trees, and four (4) shrubs shall be planted for each lot in a PD subdivision, as well as building foundation planting of appropriate shrubs, flowers, or ground covers. Landscaping in the park strip in the street right-of-way shall have a unified design theme in PD subdivisions. Multiple family PD's shall provide a minimum of one (1) deciduous or evergreen tree per two (2) units, and two (2) shrubs per unit. The intent is to have a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views.

(i) 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 wind breaks, screening, and accent plantings.

(f) *Water Conservation.* The majority of new plant material used for landscaping the development should be water conserving plants. The landscaping design shall locate plant materials in similar water usage demand zones to ~~insure~~ensure proper irrigation coverage and reduce wasteful irrigation coverage and reduce wasteful watering.

(i) The use of turf grass shall be limited to areas of high foot traffic, play areas, and other appropriate areas as determined by the Planning Commission. All other areas which are normally planted with lawn, shall be planted with ground covers, shrubs, or trees.

(ii) Drip irrigation systems shall be designed and installed to irrigate all shrub and tree areas as needed.

(5) *Streets.* The type and arrangement of roadways peripheral to and abutting any development shall be in compliance with the Master Street Plan, the Official Map, and any Local Policy Street Maps for the area of the development. 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 Planning and Engineering Staff, shall determine if the street should be extended as a through street or as a cul-de-sac during the concept or preliminary approval.

(a) *Public Streets.* All dedicated public streets shall be constructed to City standards including width, as outlined in Section 15.03.~~040~~200, Provo City Code.

(b) *Private Streets.* All streets shall be constructed to City standards including width, as set forth in ~~Section 15.03.040, and~~ Section 15.03.200, Provo City Code. The standards for local residential streets are identical for public and private streets. Refer to Figure 15.03.200 in Title 15.

14.31.090
Density Bonus.

PD Developments are eligible for a density bonus based on additional amenities provided per Provo City Code Section 14.31.100. Each amenity is assigned a standard percentage increase in dwelling units above the underlying zone density limit. The total density bonus for a project shall not exceed forty percent (40%) above the underlying zone density limit.

~~Density in excess of the base density for the underlying zone may be considered for projects which comply with the bonus density design requirements. The amount of density bonus shall be determined by the type of Bonus Density Design Requirements incorporated in the development proposal. In no case shall the density bonus exceed the maximum density allowed for the zone in which the development occurs according to the following chart:~~

~~Zone~~	~~Base Density~~	~~Max Density~~
~~RA~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA*~~
~~R1.20~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA~~
~~R1.15~~	~~2.90 Units/NDA~~	~~4.06 Units/NDA~~
~~R1.10~~	~~4.35 Units/NDA~~	~~6.09 Units/NDA~~
~~R1.9~~	~~4.84 Units/NDA~~	~~6.77 Units/NDA~~

R1.8	5.44 Units/NDA	7.62 Units/NDA
R1.7	6.22 Units/NDA	8.71 Units/NDA
R1.6	7.26 Units/NDA	10.16 Units/NDA

* Net Developable Acre

14.31.100

Density Bonus Calculations.

For applicants requesting a density greater than the base density, the Planning Commission shall determine whether the applicant has complied with the necessary design components as provided in Section 14.31.110 of this Chapter and shall assign density points as applicable. The additional units per acre allowed above the base density for the PD shall be determined by multiplying the total number of density bonus points by the density coefficient of the underlying zone. This figure is the additional number of units per acre allowed above the base density. This number when added to the base density will determine the total density per acre for the project; provided that the number shall not exceed the maximum density allowed in the zone. (Example: The project is in an R2 zone and the design is awarded 75 bonus points. 75 x .0435 = 3.26 additional units per acre. 3.26 + 10.89 (base density) = 14.15 maximum units per acre for the development.) The density coefficient for each underlying zone and the total amount of points needed for the maximum density are listed below:

Zone	Density Coefficient	Maximum Density Points
RA	.0087	100
R1.20	.0087	100
R1.15	.0116	100
R1.10	.0174	100
R1.9	.0193	100
R1.8	.0218	100

~~R1.7~~	~~.0249~~	~~100~~
~~R1.6~~	~~.0290~~	~~100~~
~~R2~~	~~.0435~~	~~100~~

14.31.100~~110~~

Density Bonus Features.~~Design Requirements.~~

(1) *Building Variety*. Any development providing four (4) or more types of housing models defined by different floor plans, exterior materials, or roof lines are eligible for a ten percent (10%) increase in density.

(2) *Affordable Housing.* Any PD which provides deed-restricted affordable housing defined by 80% AMI (Average Median Income) may be eligible for a density bonus. The percentage of density bonus given for affordable housing shall be equal to the percentage of affordable housing units provided, up to forty percent (40%) above the underlying zone base density.

~~If greater density is requested above the base density, a PD development shall comply with one (1) or more of the following bonus density design requirements depending upon the desired density increase. The Planning Commission shall review and determine if the proposed design complies with the intent of the design requirement before the points are granted. The density bonus points for each individual design component are in parentheses at the end of each requirement. In order to receive the maximum density allowed in the zone, the development shall have received bonus density points from at least one design component in each of the following categories: energy efficiency, building design, design theme, landscaping, and open green space. A design component cannot be used to obtain points in more than one category. The density bonus design requirements are as follows:~~

~~(1) *Energy Efficiency.*~~

~~(a) *Insulation.* All dwellings and main buildings shall have R-19 wall insulation and R-38 ceiling insulation. (Up to 10 points.)~~

~~(b) *Solar Design.* All dwellings are designed with an active or passive solar feature. The solar feature shall be a solar water heater, trombe wall, earth insulation of a majority of the walls, the building designed so that the main exposure faces south and has windows to allow solar access, or other features as approved by the Planning Commission. (Single feature per unit throughout the entire project, up to 20 points. Combination features per unit throughout the entire project, up to 30 points.)~~

~~(2) *Building Design.*~~

~~(a) *Materials.* All facades of each dwelling structure, exclusive of windows or doors, have a minimum coverage of eighty percent (80%) of the exterior surface in either brick or stone. (Up to 20 points.)~~

~~(b) *Attached Garage.* Required parking for each unit is provided for by an attached garage. (Up to 25 points.)~~

~~(c) *Carports.* All required parking for each unit is covered by carports. (Up to 10 points.)~~

~~(d) *Roof Materials.* All roofs of main buildings are clad with wood shake, tile, or slate shingles. (Up to 15 points.)~~

~~(3) *Design Theme.*~~

~~(a) *Installed Landscaping.* Landscaping is designed and installed along all streets of the development according to a theme which provides units and interest. (Up to 20 points.)~~

~~(b) *Theme Lighting.* Theme lighting is used throughout the development for street lighting, lighting of walkways, parking areas, entrances, and building exteriors. (Up to 15 points.)~~

~~(c) *Fencing.* Perimeter fencing is used throughout the project that matches the building design, i.e., masonry columns or piers using the same brick or stone as the buildings. (Up to 15 points.)~~

~~(d) *Special Features.* Special features such as fountains, streams, ponds, sculptures, buildings or other elements which establish a strong theme for the development and are utilized in highly visible locations in the development. (Up to 20 points.)~~

~~(4) *Parking Areas.*~~

~~(a) *Screening.* Parking lots of twenty (20) or more stalls are screened from view by means of berming or landscaping around the perimeter of the parking lot. (Up to 20 points.)~~

~~(b) *Landscaped Islands.* Parking lots of twenty (20) or more stalls or a continuous row of parking over ninety (90) feet in length has a landscaped island(s) which provides landscaping at a ratio of one (1) square foot of landscaping per thirteen (13) square feet of hard surface. (Up to 15 points.) Refer to Figure 14.31.100 at the end of this Chapter.~~

~~(c) *Shade Trees.* Areas with five (5) or more uncovered parking stalls are designed to include minimum two (2) inch caliper trees located in such a manner as to shade fifty percent (50%) of the parking area upon maturation of the trees. (Up to 15 points.)~~

~~(5) *Recreational Amenities.*~~

(a) *Active Recreation.* The PD includes a recreational amenity primarily for the use of the residents of the development. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other features as approved by the Planning Commission. The Planning Commission may determine the points based on the cost of the amenity, its benefit to the residents of the development, its size and the number of amenities in the development. (Between 5 to 35 points.)

(b) *Common Building Facilities.* Development of a common building which shall be used for meetings, indoor recreation, day care, or other common uses as approved by the Planning Commission. RV parking facilities may also be considered with this design feature. (Up to 20 points.)

(c) *Park Dedication.* Dedication of land for public park, public access along a stream, or public access along a planned trail. The City must be willing to accept the proposed dedication before points are awarded. (Public access up to 15 points. Public park up to 40 points.)

(d) *Construction of Trail or Park.* Construction according to City standards of trail or park which has been dedicated to the City according to item number (c) above. (Trail 15 points, public park 40 points.)

(6) *Landscaping.*

(a) *Extra Trees.* Design and planting more than the minimum number of trees, shrubs, and perennials per dwelling unit in the development. (Up to 20 points.)

(b) *Soften Fence Appearance.* Areas which are to be screened use a solid non-see-through wood or masonry fence and landscaping which acts to soften the appearance of the fence. Landscaping may be vines, shrubs, or trees. (Up to 15 points.)

(7) *Open Green Space.*

(a) *Designed Plan.* Open green space is designed (not left over space between buildings) and flows uninterrupted through the entire development linking dwellings and recreation amenities. (Up to 25 points.)

(b) *Multiple Use.* Storm water detention facilities are designed and used for multiple purposes which blend with the overall theme of the open space design i.e., shape of the area is free flowing, the grading and landscaping are carried out in such a manner that the use as a detention pond is not discernible. (Up to 20 points.)

(8) *Public Streets.* All streets within the development are dedicated public streets, or at least built to public street standards. (Up to 25 points.)

14.31.~~130~~110

Concept Plan Approval.

Concurrent with any request to rezone property to the Performance Development Overlay Zone, and prior to final plan approval, a concept plan which meets the requirements of Section 15.03.300, Provo City Code, shall be submitted to the Provo City Planning Commission.

14.31.~~140~~120

Final Project Plan Approval.

Prior to the construction of any building or structure in the PD zone, a final project plan shall be submitted and approved that meets the requirements of Section 15.03.310, Provo City Code. Said plan may be submitted in units or phases, provided each such phase can exist as a separate entity capable of independently meeting all of the requirements and standards of this Chapter and of the underlying zone with which the PD zone has been combined. The separate development of said phases shall not be detrimental to the performance development nor to the adjacent properties in the event that the remainder of the project is not completed.

14.31.~~150~~130

Guarantees and Covenants.

(1) Adequate guarantees shall be provided for permanent retention and maintenance of all open space areas created within a performance development. The Chief Building ~~Inspector~~Official shall not issue a ~~final inspection clearance~~Certificate of Occupancy until all required guarantees have been submitted to and approved by the Planning Commission. Said open space guarantees may include the following:

(a) The City may require the developer to furnish and record protective covenants which will guarantee the retention of the open land area, or the City may require the creation of a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.

(b) The developer shall be required to develop and provide for the maintenance of all open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City Parks and Recreation Department accepts dedication and approves the annexation of the property to said park.

(c) In the case of private reservation, the open space to be reserved shall be protected against building development by conveying to the City as part of the condition of project approval, an

open space easement over such open areas, restricting the area against any future building or use, except as approved on the project plan.

(d) The care and maintenance of the area within such open space reservation shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plan approval.

(e) Maintenance of open space reservations shall be managed by person, partnership, or corporate entity in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

(f) Minor changes in the location, siting, and height of buildings and structures may be authorized by ~~the Planning Commission~~staff without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this Subsection may cause any of the following:

(i) A change in the use or character of the development;

(ii) An increase in overall coverage of structures;

(iii) An increase in the intensity of use;

(iv) An increase in the problems of traffic circulation and public utilities;

(v) A reduction in approved open space;

(vi) A reduction of off-street parking and loading space;

(vii) A reduction in required pavement widths.

(g) All other changes in use, or rearrangement of lots, blocks, and building tracts, or any changes in the provision of common open spaces and changes other than listed above, must be made by the Municipal Council after report of the planning staff and recommendation by the Planning Commission.

(2) In order to insure that the performance development will be constructed to completion in an acceptable manner, the applicant (owner) shall post a performance bond in compliance with City bonding policy.

(3) The applicant (owner) of any performance development which is being developed as a condominium project under the provisions of the Condominium Ownership Act of Utah, or subsequent amendments thereto, shall, prior to the conveyance of any unit, submit to the Planning

Commission a declaration of covenants, conditions, and restrictions relating to the project, which shall become part of the final development plan and shall be recorded to run with the land. Said covenants, conditions, and restrictions shall include management policies which shall set forth the quality of maintenance that will be performed and who is to be responsible for said maintenance within said condominium development. Said document shall, as a minimum, contain the following:

(a) Provisions for the type of occupancy (family or baching singles) as determined by the amount of provided parking and by the underlying zone.

(b) The establishment of a private association or corporation responsible for all maintenance, which shall levy the cost thereof as an assessment to each unit owner within the condominium development.

(c) The establishment of a management committee, with provisions setting forth the number of persons constituting the committee, the method of selection, and the powers and duties of said committee; and including the person, partnership, or corporation with property management expertise and experience who shall be designated to manage the maintenance of the common areas and facilities in an efficient and quality manner.

(d) The method of calling a meeting of the members of the corporation or association with the members thereof that will constitute a quorum authorized to transact business.

(e) The method for maintenance, repair, and replacement of common areas and facilities, and distribution of costs thereof.

(f) The method for maintenance of all private streets and private utilities and acknowledgment that such maintenance is the responsibility of the homeowners corporation or association.

(g) The manner of collection from unit owners for their share of common expenses, and the method of assessment.

(h) Provisions as to percentage of votes by unit owners which shall be necessary to determine whether to rebuild, repair, restore, or sell property in the event of damage or destruction of all part of the project.

(i) The method and procedure by which the declaration may be amended: the declaration required herein, any amendment, and any instrument affecting the property or any unit therein shall be approved by the Planning Commission and recorded with the County Recorder. Neither the declaration nor any amendment thereto shall be valid until approved and recorded. Said declaration and amendments thereto shall be maintained as part of the project plan for the performance development.

(4) In case of failure or neglect to comply with any and all of the conditions and regulations herein established, and as specifically made applicable to a performance development, the building

inspector shall not issue a certificate of zoning compliance therefore. 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 or approval thereafter shall also be deemed to be a violation of this Chapter.

(5) Streets not constructed to City width standards shall be noted in a required covenant. Such streets ~~cannot~~ may only be dedicated ~~unless brought up to City standards~~in compliance with Provo City Code Chapter 15.23. The Municipal Council may vote to remove the property from the Performance Development Overlay Zone and deny the project plan, if the plan for the property is found to be out of character with the neighborhood; if, in the interest of promoting the general health, safety and welfare, the changed project plan should be denied; or if implementation of the new project plan would hinder or obstruct the attainment of policies established in the General Plan.

~~14.31.160~~

~~Fees.~~

~~Fees shall be charged to offset a portion of the costs incurred by the City in reviewing and processing project plans, pertaining to the PD (Performance Development) zone. Those fees shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

14.31.~~170~~140

Appendix.

(1) *Land Use Conflicts.* The matrix indicates the conflicts that are presumed to exist between land uses. The types of mitigation measures listed in the following Sections are the design tools that may be employed either separately or in combination to mitigate existing or potential land use conflicts. Minimum Performance Standards require that such conflicts be mitigated as a condition for approval of the development plan.

(a) Land Use Conflict Mitigation Measures

(i) *Open Space Setbacks.* By providing an open space buffer between conflicting land uses, conflicts can often be avoided. The width of the buffer required will depend on the extent of landscaping. To work effectively, the ownership, use, and maintenance of the open space buffer must be clearly defined.

(ii) *Landscaping and Topographic Changes.* As part of an open space buffer or as a treatment of land immediately adjacent to buildings, landscaping can be used to reduce conflicts.

(A) Dense plantings of evergreens can provide a visual buffer.

(B) Sensitive landscaping can soften the sharp visual contrast between two (2) abutting land uses by subduing the differences in architecture and bulk and by providing a gradual transition rather than a harsh edge between uses.

(C) Dense growth of plants can be visually appealing but also can be inhospitable to unwanted travelers. Such natural screen can discourage unwanted and unsafe pedestrian or bicycle access between land uses.

(D) Good landscaping can help other mitigation measures. It can reduce the width of open space buffer required. It can soften the visual conflict created by safety and security fences.

(E) Recontouring of the land can alter views, subdue sounds, change the sense of proximity, and channel pedestrian travel.

(iii) *Orientation.* The strict spatial proximity between land uses and the apparent or functional proximity can be very different depending on the orientation of buildings and activities of the two (2) land uses.

(A) The buildings themselves can cause a buffer to be created by effectively turning their backs on each other - orienting views, access and principal activities away from the other land use. Care must be taken, however, that a hazardous and unaesthetic “no-mans’s land” is not created in the process. Some appropriate use must be given to the intervening space. Alternately, the intervening space can be eliminated altogether if the two (2) buildings share a common back wall. An entire site plan can be oriented so that the activities and functions are aligned hierarchically - placing those least compatible furthest from the common boundary between land uses and those most compatible near that boundary.

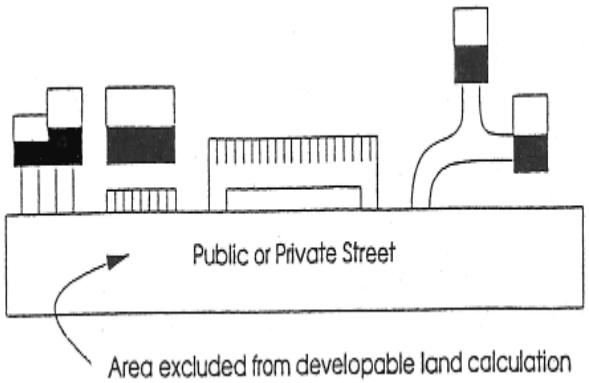
(iv) *Barriers and Alleviation.* It may be appropriate and necessary to use physical barriers to prevent the undesirable attributes of one land use from affecting the people and activities in the adjacent land use. Fences, walls and berms can prevent the passage of people into areas that would be unsafe or insecure. They can also prevent spillage of materials from one (1) site to another. Noise, light, and odor pollution can be reduced at the point of origin by modifying the normal design of the operations causing the pollution. Light and noise can also be mitigated through physical barriers such as fences, walls, berms, screens and landscaping.

(v) *Architectural Compatibility.* In addition to the architectural considerations involved in mitigation through orientation, the materials, colors, scale, and prominence of buildings in adjacent land uses can be coordinated so there is a gradual transition from one (1) land use to another rather than a sharp and displeasing contrast. Purely aesthetic details that are “tacked” onto a building to cover up land use conflicts, however, will cause more harm

than good. The architectural compatibility should rise from a total consideration of the function of each land use and the function of the space between them.

(vi) *Circulation.* Streets and parking areas can often serve to reduce certain types of land use conflicts.

Figure 14.31.070. Density Determination.



~~**Figure 14.31.080(a). Setbacks.**~~

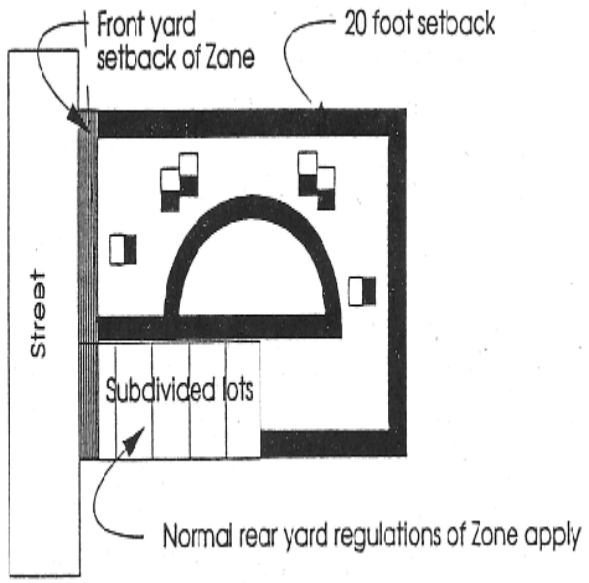


Figure 14.31.080(a~~b~~). Fence Height.

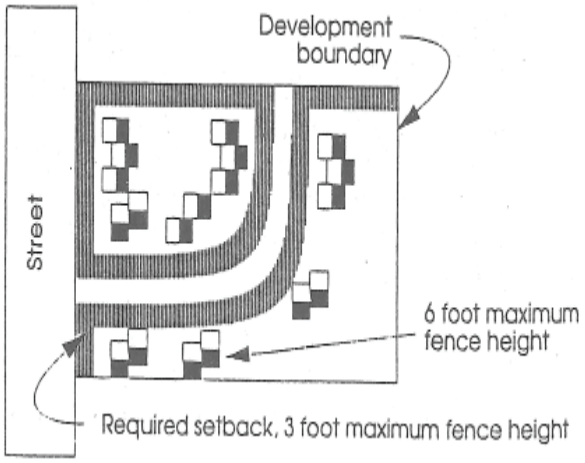
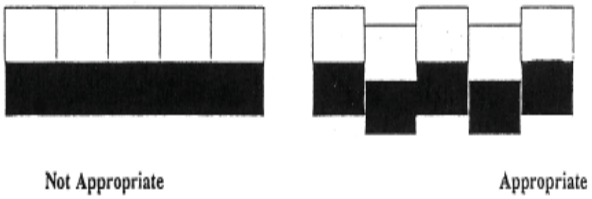


Figure 14.31.080(bc). Visual Relief.



~~**Figure 14.31.100. Landscaped Islands.**~~

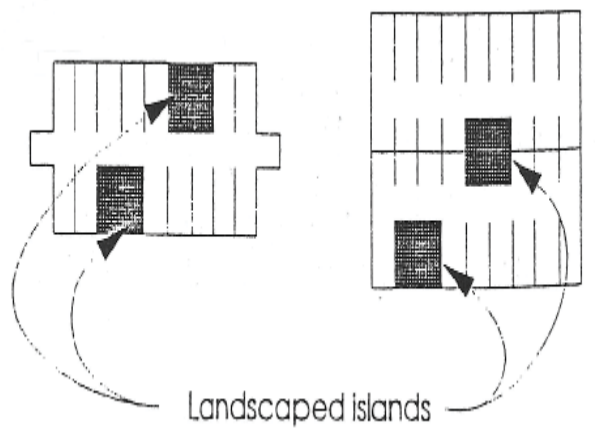


EXHIBIT B

Chapter 15.04

~~CONVENTIONAL AND OPEN SPACE~~ SUBDIVISION REQUIREMENTS

Sections:

~~15.04.010 Purpose and Objectives.~~
~~15.04.020 Applicability.~~
15.04.0~~30~~010 Conceptual Integrated Development Street Layout Plan.
~~15.04.040 Open Space.~~
~~15.04.050 Density and Open Space Determination.~~
~~15.04.060 Design Standards for Open Space Subdivision Lots and Structures.~~
15.04.0~~70~~020 Land Uses for Conservation Areas.
15.04.0~~80~~030 Conservation Easements.
15.04.0~~90~~040 Conservation Area Design Standards.
15.04.~~100~~050 Protection of Natural Habitat.
15.04.~~110~~060 Guarantees and Covenants.
15.04.~~120~~070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.
15.04.~~130~~080 Preliminary Subdivision Plan.
15.04.~~140~~090 Final Subdivision Plan.
15.04.~~150~~100 Vacating or Changing a Subdivision Plat.

~~15.04.010~~

~~Purpose and Objectives.~~

~~The purpose of this Chapter is to regulate the subdivision of land as set forth in this Title. Optional open space subdivision regulations are provided to encourage imaginative and efficient land utilization and to provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required for residential development. This is accomplished by providing greater flexibility in the location of buildings on the land, the conservation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of the City by allowing open space residential subdivisions planned as a whole, single complex. Such open space subdivisions are intended to incorporate a development theme which includes the elements of usable open spaces, amenities, a well-planned circulation system, and attractive entrances as part of the design. Such open space subdivisions are also~~

~~intended to provide a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences so that the community's population diversity may be maintained.~~

~~15.04.020~~

~~Applicability.~~

~~All subdivisions proposed in A1, RA, and R1.20 to R1.8 zones, regardless of location within the City, may apply the open space subdivision requirements of this Title unless the Planning Commission determines that the area to be developed would be better served by a conventional subdivision. Conventional and open space subdivisions shall conform with applicable requirements of this Title. The Planning Commission may require that open space subdivision regulations be applied in instances where primary and secondary conservation areas are in jeopardy and need preservation.~~

15.04.0~~30~~010

Conceptual Integrated Development Street Layout Plan.

(1) All subdivisions require the submission of a conceptual street layout plan for undeveloped or partially developed property within five hundred (500) feet of the proposed subdivision. Such plan shall be submitted with an application for preliminary ~~plan~~plat or final ~~plan~~plat approval and such approval shall be subject to ~~the Planning Commission's~~staff review of the conceptual street layout plan for compliance with this Section. If the proposed development consists of less than three (3) acres or less than ten (10) lots and a preliminary ~~plan~~plat is not required under Section 15.04.~~130~~080(1), Provo City Code, the conceptual street layout plan shall be submitted independently and/or with the application for final ~~plan~~plat approval.

(2) The conceptual street layout plan shall provide general compliance with the following sections of the Provo City Code:

(a) Section 15.03.070, Provo City Code, Developable Land.

(b) Section 15.03.200, Provo City Code, Street Standards.

(c) Section 15.03.210, Provo City Code, Block Standards.

(d) Section 15.03.220, Provo City Code, Lot Standards.

(e) Section 15.05.160, Provo City Code, Hillside Development Standards.

(3) Preliminary plans shall integrate with the conceptual street layout plan. The conceptual street layout plan is required for the purpose of demonstrating that the proposed subdivision will not cause detriment to the integrated development of the overall area.

(4) Conceptual street layout plans demonstrating compliance with this Section shall not be construed as having regulatory authority over properties included in the plan that are not the subject of application for preliminary plan or final plan approval. Future developers of these properties may propose alternative street layouts pursuant to the standards identified in this Section and all other regulations of Titles 14 and 15, Provo City Code.

(5) Notwithstanding Subsection (4) of this Section, should ~~the Planning Commission~~staff determine that a specific conceptual street layout plan is crucial to ensuring the integrated development of an area, the ~~Planning Commission, or their designee,~~staff may forward a recommendation to the Municipal Council to amend the local street plan pursuant to Section 14.03.~~040~~050, Provo City Code.

~~15.04.040~~

~~Open Space.~~

~~The location of open space in open space subdivisions shall be consistent with policies contained in the General Plan, as interpreted by the Planning Commission, and with the requirements contained in this Chapter. The size of secondary conservation areas shall be determined as set forth in Section 15.04.050. Such areas may be used to buffer primary conservation areas from developable land.~~

~~(1) Full density credit shall be allowed for secondary conservation areas that would be buildable under local, state and federal regulations but for the requirement to provide a secondary conservation area pursuant to Section 15.04.050. Such density credit may be applied to other unconstrained parts of an open space subdivision.~~

~~(2) Yard areas within lots shall not be counted toward meeting the minimum open space requirement. The Planning Commission may consider applying all or a portion of primary conservation areas to meeting the open space requirements below provided that such primary conservation areas are enhanced and made usable for active or passive recreation. The majority of the lots within the subdivision should abut open space.~~

~~15.04.050~~

~~Density and Open Space Determination.~~

~~(1) Density in a subdivision shall be determined using the developable land of the proposed development set forth in 15.03.070. Density shall be computed using net rather than gross acreage.~~

~~(2) A lot yield drawing shall be submitted indicating the number of lots could be created on developable land by conforming to conventional subdivision requirements and using the underlying zone as the basis for calculating density. The number of conventional subdivision lots that could be~~

created in conformance with the requirements of the underlying zone shall establish the base density for an open space subdivision. Such density may be increased subject to receiving a density bonus and approval from the Planning Commission as provided in this Section.

(3) For every one percent (1%) increase in open space, base density may be increased by one percent (1%) as long as each lot conforms to minimum lot size requirements as shown on the tables below. For every one percent (1%) decrease in open space, base density shall be decreased by one percent (1%). In the event an open space impact fee is established, such fee may be paid in lieu of decreasing density.

(4) Minimum open space and lot yield in an open space subdivision shall be determined as shown on the tables below.

(a) A1.1 zone (base density = 1 d.u./43,560 sq. ft.)

Minimum Open Space	Lot Yield	Lot Size Min.
50 percent (base)	10.0	8,000
55 percent	10.5	
60 percent	11.0	
65 percent	11.5	
70 percent	12.0	
75 percent	12.5	

(b) RA and R1.20 zones (base density = 1 d.u./21,780 sq. ft. or 1 d.u./ 20,000 sq. ft.)

Minimum Open Space	Lot Yield	Lot Size Min.
35 percent (base)	20	6,000

Minimum Open Space	Lot Yield	Lot Size Min.
40 percent	21	
45 percent	22	
50 percent	23	

(c) R1.10 zone (base density = 1 d.u. / 10,000 sq. ft)

Minimum Open Space	Lot Yield	Lot Size Min.
25 percent (base)	43.5	5,000
30 percent	45.6	
35 percent	47.8	

(d) In the R1.8 zone: (base density = 1 d.u./ 8,000 sq. ft)

Minimum Open Space	Lot Yield	Lot Size Min.
20 percent (base)	54	5,000
25 percent	56.7	

(5) A density bonus may be allowed by the Planning Commission when one (1) of the following public benefits is provided:

(a) A density bonus for the dedication and improvement of land for public use (including active and passive recreation areas, municipal buildings, parks, trails, etc.) may be granted at the rate of a maximum of three (3) dwelling units per acre of conservation land dedicated for public use.

~~Any proposed park shall be approved by the Parks and Recreation Board and shall comply with the Parks Department Master Plan. Dedicated conservation land shall conform to General Plan policies, particularly those sections dealing with active recreational facilities and passive trail networks, as determined by the Planning Commission.~~

~~(b) A density bonus may be granted if a fund is created to generate additional income for the sole purpose of off-setting the continuing cost of maintaining the conservation land (such as mowing meadows, weeding, paying insurance premiums and local taxes), including costs associated with active or passive recreation facilities. Spending from this fund shall be restricted to expenditure of interest so that principal may be preserved. Assuming an annual average interest rate of five percent (5%), the amount designated for an endowment fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm or organization acceptable to the Planning Commission, with experience in managing conservation land and recreational facilities. The fund shall be transferred by the developer to the entity having ownership and maintenance responsibilities of the open space (such as a homeowner's association, a land trust, or the City) prior to occupancy. Not more than half of the bonus density awarded to a particular development may come from this category.~~

~~(c) A density increase is permitted where the open space subdivision proposal provides on site housing opportunities for low or moderate income families. The affordable housing shall be intermixed throughout the project and shall be proportional to the overall project or for each phase. For each affordable housing unit provided under this Subsection, one (1) additional building lot, dwelling unit or accessory dwelling unit shall be permitted up to a maximum of fifteen percent (15%) increase in dwelling units above the base density. For the purpose of this Subsection, affordable housing means units offered for sale at prices available to families earning seventy percent (70%) to one hundred twenty percent (120%) of the county median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development. If accessory housing units are provided, they shall be conform to the requirements of Title 14.~~

~~(6) A density of bonus of two and one half percent (2 1/2%) above base density may be granted to a project for each of the amenities set forth in this Subsection as determined by the Planning Commission. The total density bonus resulting from such amenities and any density bonus granted under Section 15.04.050(5) shall not exceed twenty five percent (25%) over base density.~~

~~(a) At least seventy-five percent (75%) of the dwellings are designed with an active or passive solar feature. Qualified solar features include solar water heaters, trombe walls, earth insulation of a majority of building walls, building design having south facing main exposures and solar access windows. Similar solar features may be approved by the Planning Commission.~~

(b) Special features such as fountains, streams, ponds, sculptures, lighting, buildings or other elements that establish a strong design theme for the subdivision and are utilized in highly visible locations. Such features shall be first reviewed and approved by the Design Review Committee.

(c) An active recreational amenity primarily for the use of the residents of the subdivision. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other similar features approved by the Planning Commission. The Planning Commission shall determine the amount of the bonus based on the cost of the amenity, its benefit to the residents of the subdivision, its size, and the number of amenities in the subdivision.

(d) The provision of day care within the subdivision accessible to all residences therein.

(e) Landscaping installed for all residential lots including front yards and all open space. The minimum requirements for such landscaping shall be as follows:

(i) Each dwelling unit shall have a minimum of three (3), one and one-half (1 1/2) inch caliper, deciduous trees or four (4) foot tall evergreen trees, four (4) shrubs, and building foundation planting of appropriate shrubs, flowers, or ground-cover. All shrubs shall be a minimum size of five (5) gallons.

(ii) Landscaping in the park strip in the street right-of-way shall have a unified design theme. Berming is encouraged to separate and screen residential areas from arterial and collector streets. All landscaping installed within a park strip shall be installed in accordance with Chapter 15.20, Provo City Code.

(iii) Landscaping shall include a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views. 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 wind breaks, screening, and accent planting.

(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory living spaces. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory living spaces, meeting the standards of Chapter 14.30, Provo City Code, may be located above or below a main dwelling unit or above a garage.

~~15.04.060~~

~~Design Standards for Open Space Subdivision Lots and Structures.~~

~~(1) Lots within open space subdivisions shall be exempt from the minimum development requirements of the applicable zone, but minimum lot size shall be limited as set forth in Section 15.04.050.~~

~~(2) Access to dwelling units on residential lots shall be from interior streets and not from streets bordering the subdivision. Alleys should be used wherever possible providing access to rear facing garages.~~

~~(3) Yard requirements shall be as follows:~~

~~(a) each lot shall have a front yard of not less than twenty (20) feet in depth;~~

~~(b) each lot shall have a side yard of not less than eight (8) feet. The distance between principal buildings on each lot shall be a minimum of sixteen (16) feet;~~

~~(c) on corner lots, the side yard contiguous to the street shall be not less than sixteen (16) feet; and~~

~~(d) each lot shall have a rear yard of not less than twenty (20) feet.~~

~~(4) In order to reduce potential conflicts between new residents and adjoining agricultural or recreational practices and activities, the width of the conservation open space adjacent to residential lots shall be maximized.~~

~~(5) Detached housing shall vary in design and materials as follows:~~

~~(a) Any development of fifty (50) or more one-family or two family detached dwelling units shall have at least four (4) different types of housing models. Any development of fewer than fifty (50) one-family dwelling units shall have at least three (3) different types of housing models. The developer shall include, in the application for approval of the preliminary subdivision development plan, documentation showing how the development will comply with the foregoing requirement.~~

~~(b) Each dwelling unit model type shall have at least three (3) characteristics which clearly and obviously distinguish it from other model types, including different floor plans, exterior materials, roof lines, garage placement, placement of the footprint on the lot, and/or building face.~~

~~(c) The requirements of subparagraphs (a) and (b) above shall not apply to an open space subdivision containing ten (10) or fewer dwelling units.~~

15.04.~~070~~020

Land Uses for Conservation Areas.

(1) If development must be located on open fields or pastures because of greater constraints in all other parts of a site, dwellings should be sited on the least prime agricultural soils, or soils rated lowest in productivity.

(a) Open space may be left in a natural state (for example, woodland, fallow field, managed meadow).

(b) Agricultural and horticultural uses, including raising crops or livestock as permitted in the underlying zone, shall be permitted on conservation land~~, with the exception of raising of mink, hogs and other animals likely to produce highly offensive odors, in large numbers~~.

~~(c) Animal rights shall not be permitted on any lots smaller than the minimum lot size required in the underlying zone.~~

~~(d)~~(c) Neighborhood open space uses such as picnic areas, community gardens, trails and similar low-impact passive recreational uses shall be permitted uses on conservation lands. Motorized off-road vehicle areas, rifle ranges and other uses which may have a direct impact on the adjoining residential properties shall be prohibited on conservation lands.

~~(e)~~(d) Public access to conservation areas shall be provided at a width of at least twenty (20) feet unless otherwise approved by ~~the Planning Commission~~staff. Such access ways may be designed at a width of ten (10) feet if intended solely for bicycle or pedestrian use.

(2) ~~Conditional~~Permitted uses on conservation lands shall be limited to:

(a) equestrian facilities;

(b) wholesale nurseries and associated buildings;

(c) golf courses;

(d) utility facilities; and

(e) ~~Other~~ outdoor recreational facilities ~~as determined by the Planning Commission.~~

15.04.~~080~~030

Conservation Easements.

(1) To protect primary and secondary conservation areas from future development, conservation easements may be established as provided in the Utah Land Conservation Easement Act. In the event of a conflict between such Act and this Title, the provisions of the Act shall apply.

(2) A conservation easement is an interest in land and runs with the land encumbered by the easement and is valid whether it is appurtenant or in gross. A conservation easement shall be enforceable by the holder of the easement and its successors and assigns against the grantor and its successors, heirs and assigns.

(3) Any property owner may grant a conservation easement to a charitable organization which qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code or to a governmental entity by purchase, gift, devise, grant, lease or bequest in the same manner and with the same effect as any other conveyance of an interest in real property. A conservation easement shall be in writing and shall be recorded in the Office of the Utah County Recorder. The instrument that creates a conservation easement shall:

(a) identify and describe the land subject to the conservation easement by legal description;

(b) specify the purpose for which the easement is created, and

(c) include a termination date or a statement that the easement continues in perpetuity.

(4) Any qualified organization or entity that receives a conservation easement shall disclose to the easement's grantor, at least three (3) days prior to the granting of the easement, the types of conservation easements available, the legal effect of each easement and that the grantor should contact an attorney concerning any possible legal and tax implications of granting a conservation easement.

(5) A conservation easement may be terminated, in whole or in part, by release, abandonment, merger, non-renewal, conditions set forth in the instrument creating the conservation easement, or in any other lawful manner in which easements may be terminated if approved by the Municipal Council after receiving a recommendation from the Planning Commission.

(6) A conservation easement may be enforced or protected by injunctive relief granted by a court in a proceeding initiated by the grantor or holder of the easement. In addition to injunctive relief, the holder of a conservation easement is entitled to recover monetary damages. The holder of a conservation easement may enter the real property subject to the easement at reasonable times and in a reasonable manner to ensure compliance.

(7) No conservation easement, or right-of-way or access to a conservation easement may be obtained through the use of eminent domain.

15.04.~~090~~040

Conservation Area Design Standards.

(1) Fragmentation of conservation areas shall be minimized so that they are not divided in smaller isolated parcels. Parcels less than one hundred (100) feet wide should be avoided, unless

necessary to connect other significant areas, such as streams or trails. Prime farm land should be considered for conservation wherever possible in order to continue to promote the farming activity.

(2) Conservation areas shall be designed as part of larger continuous and integrated open space systems.

(3) Conservation areas shall be designed to provide buffers and to protect scenic views as seen from roadways and from public parks.

(4) A portion of conservation areas may be commonly used by subdivision residents for agricultural or horticultural purposes.

(5) No portion of any building lot may be used for meeting minimum amount of required conservation land area; however, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum amount of required conservation land.

(6) All conservation areas that are not wooded, farmed or maintained as conservation meadows shall be maintained or/and landscaped as determined by ~~the Planning Commission~~staff. The use of berming is encouraged to buffer residential areas from arterial and collector streets and incompatible land uses.

(7) A maintenance plan shall be prepared for common open space areas. Such plan shall be submitted with an open space subdivision application and shall, at a minimum, address the following:

(a) vegetation management;

(b) watershed management;

(c) debris and litter removal;

(d) fire access and suppression;

(e) maintenance of public access and/or maintenance of limitations to public access;

(f) horticultural and agricultural management; and

(g) other factors deemed necessary by the Planning Commission (such as funding, staffing, insurance and remedies in the case of default).

15.04.~~100~~050

Protection of Natural Habitat.

Conservation purposes include the protection of a fish, wildlife or plant habitat. This would include the preservation of a habitat or environment that to some extent has been altered by human activity if fish, wildlife, or plants exist there in a relatively natural state as determined by the Utah Division of Wildlife Resources.

15.04.~~110~~060

Guarantees and Covenants.

(1) Adequate guarantees shall be provided to protect all primary and secondary conservation areas from future development. The Chief Building Official shall not issue a Certificate of Occupancy for any structures in such subdivisions until all required guarantees have been submitted to and approved by the Planning Commission. ~~The developer of an open space subdivision may elect any of the following to preserve conservation areas:~~

~~(a) Furnish and record protective covenants which will guarantee the retention of the open land area.~~

~~(b) Create a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.~~

~~(c) Establish a conservation easement restricting the area against any future building or use, except as approved as part of the open space subdivision.~~

(2) The developer shall be required to develop and provide for the maintenance of all common open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City accepts dedication and approves the annexation of the property to said park.

(a) The care and maintenance of such open space shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plat approval.

(b) Maintenance of open space reservations shall be managed by persons, partnerships, or corporate entities in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

15.04.~~120~~070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.

Notwithstanding the provisions of Section 15.01.020, Provo City Code, the following steps or procedures shall be followed in order to obtain approval of a subdivision:

(1) *Step 1.* Any person, partnership, firm, or corporation wishing to construct a subdivision with three (3) acres or more or ten (10) lots or more, ~~shall~~may first participate in a preapplication conference with the ~~Plan Coordinating~~Coordinator Review Committee.

(2) *Step 2.* If the proposed development is located within the high water table area as defined in Section 15.03.010, Provo City Code or is regulated by Chapter 15.05 (Sensitive Lands), Provo City Code, compliance with the same shall be presented at the time of application for a preliminary or final subdivision.

(3) *Step 3.* A recent policy of title insurance or a preliminary title report showing that the person(s) listed as the owner(s) in the owner's dedication certificate on a plat or development have sufficient control over the premises to effectually dedicate streets within the development where required and to follow through with all other requirements of the City Code. The developer shall provide a tax clearance indicating that all taxes, interest, and penalties owing on the subject property have been paid.

(4) *Step 4.* The developer has a preliminary plat prepared by a licensed surveyor according to City standards, and shall include a vicinity plan, drawn at a readable scale, indicating the location of property to be developed and all adjoining property under the ownership of the developer to be developed as part of a future development.

(5) *Step 5.* Developer submits a PDF of the preliminary plat with a completed application, required fees, ~~engineer or surveyor's computer generated information disk~~ and all supporting documents to ~~the Planning Commission~~ city staff.

(6) *Step 6.* ~~Planning Commission or designated staff, in conjunction with the City Engineer and others as deemed appropriate,~~ City Staff reviews the preliminary plat for compliance with the Provo City Code. If corrections to said plat are necessary, or if associated drawings or studies are required, such corrections shall be resolved and approved by the City Engineer and others as deemed appropriate before the plat is recorded. In any subdivision contiguous to property owned by a public entity, such entity shall be notified of the proposed subdivision and shall be invited to review the preliminary plat.

(7) *Step 7.* City staff approves, conditionally approves or denies preliminary plat based upon findings that said plat does or does not comply with applicable provisions of the Provo City Code. Preliminary approval shall expire one (1) year from the date the preliminary approval was granted

unless a final plat is submitted and approved for all or a part of the subdivision. When a final subdivision does not cover the entire area included in a preliminary subdivision plat, approval of the unplatted area shall be extended to one (1) year from the date of final approval of a final plat. After expiration of the preliminary approval, no final approval shall be granted unless the developer makes a complete re-submittal including new drawings and payment of applicable fees.

(8) *Step 8.* Developer has a final plat prepared by a licensed surveyor according to City standards and submits such plat, together with the required improvement and other drawings done by a licensed engineer, and all other supporting documents and reports, along with required fees. The developer shall provide ~~two (2)~~a permanent reproducible ~~copies~~copy on Mylar of the final proposed plat. A final subdivision application shall expire one (1) year from the date of the application unless final approval is received, or sufficient progress has been made toward final approval as determined by the Development Services Director.

(9) *Step 9.* The ~~Planning Commission or designated~~ city staff reviews the final plat, in conjunction with the City Engineer and others as deemed appropriate.

(10) *Step 10.* Developer posts a bond in the form of cash or an irrevocable letter of credit, along with a subdivision improvements agreement, guaranteeing installation of the required improvements.

(11) *Step 11.* The City Engineer, when satisfied that the plat conforms with all engineering concerns, signs and seals the plat, prior to forwarding the plat to Development Services Department. The Development Services Director~~, on behalf of the Planning Commission,~~ signs the plat after receiving a recommendation from City departments for approval or conditional approval.

(12) *Step 12.* The Mayor approves, disapproves, or conditionally approves the final plat with modifications as necessary to make the final plat conform to applicable City standards and after final approval, the plat is recorded in the office of the Utah County Recorder.

(13) *Step 13.* After the final plat is recorded building permits ~~or fast tracks~~ may be issued for individual subdivision lots.

15.04.~~130~~080

Preliminary Subdivision Plan.

(1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3) acres or greater or ten (10) lots or greater.

(2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City a plan, in an approved electronic format, showing the proposed development layout, drawn to scale, and the following information:

(i) A complete and accurate legal description;

(ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor of the development, and the owners of the land immediately adjoining the land to be subdivided;

(iii) Proposed name of the development;

(iv) The location of the development as forming a part of the larger tract or parcel where the plan submitted covers only a part of the developer's tract;

(v) A conceptual integrated development plan meeting the requirements of Section 15.04.~~030~~010, Provo City Code;

(vi) A preliminary infrastructure plan for providing necessary streets, water, sewer, storm drainage, and electrical distribution for the entire tract including the point from which said services are to be extended;

(vii) A summary indicating the total area within the development, total area and dimensions of each lot, and proposed net density of the development;

(viii) Any information noted as required in the Provo City Public Works Department Development Guidelines referenced in Section 15.03.020(3)(b)(ii), Provo City Code.

(3) Based on the size, scope or complexity of the development proposal, staff may require any other information required to ensure that the proposed project complies with applicable requirements of the Provo City Code and standards and specifications adopted by the City.

(4) A final subdivision plan, meeting the requirements of Section 15.04.~~140~~090, Provo City Code, shall be submitted within twelve (12) months of the ~~Planning Commission~~staff approval of the preliminary subdivision plan. If a final subdivision plan is not submitted within the required time period, the City may initiate proceedings to rezone the property back to the zone classification that existed on the property prior to the approval.

(5) If an applicant seeks to revise a preliminary subdivision plan, the new plan shall be subject to all new sections of the Provo City Code and other new City ordinances in effect at that time.

15.04.~~140~~090

Final Subdivision Plan.

(1) A final subdivision plan shall be prepared for all developments which require a recorded plat as determined by the City Engineer. ~~In instances where a plat is not required, a lot line adjustment application must be verified and signed by the City Engineer and Development Services Director, or designee, and recorded with all other applicable documents required by the Utah County Recorder.~~

(2) A final subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City final drawings, in an approved electronic format. The final drawings or plans shall be reviewed, stamped and signed by a professional engineer and include the following:

(i) Development name and the general location of the development;

(ii) A north point and scale on the drawing and the date;

(iii) *Accurately drawn boundaries, showing the proper bearings and distances, properly tied to public survey monuments.* These lines should be heavier than street and lot lines to clearly define said subdivision boundaries;

(iv) The names, width, lengths, bearings, and curve data on center lines of proposed public or private streets, alleys or easements. All proposed streets shall be named or numbered in accordance and in conformity with the street naming and numbering system of the City;

(v) Boundaries, bearings and dimensions of all portions within the development, as intended to be dedicated to the use of the public;

(vi) Lines, dimensions, bearings, and numbers of all lots;

(vii) *Blocks and parks reserved for any reason within the development.* All lots and blocks shall be numbered consecutively under a definite system;

(viii) Drawings showing plan layout, profile, and detailed design for sewer systems, water systems, storm systems and electrical service lines, including street lights;

(ix) Plan, profile and typical cross-section drawings of all streets, bridges, culverts and other drainage structures;

(x) Grading and drainage plan indicating the finished grade by solid line contours superimposed on dashed line contours indicating the existing topography for the area of the final plan. The plan shall identify natural slopes which exceed thirty percent (30%) or greater slope and include quantities of borrowed or excess material;

(xi) All fences, barriers or landscaping as required;

(xii) All special improvements required as conditions of development approval;

(xiii) A final plat, meeting Provo City Standards, prepared by a professional land surveyor.

(3) Upon notice of final approval, one (1) copy of the final plat on a twenty-four (24) inch by thirty-six (36) inch mylar shall be submitted as part of the final plan approval.

(4) All final subdivision plans shall reference any related previously approved preliminary subdivision plan.

(5) The final subdivision plan shall conform to the preliminary subdivision plan, except in those instances where modifications have been required.

(6) A final subdivision plan application shall be subject to the expiration terms stated in Section 15.0, Provo City Code.

15.04.~~150~~100
Vacating or Changing a Subdivision Plat.

(1) A petition to vacate, alter or amend an entire plat, or to vacate a street, or alley in a subdivision shall conform to Utah Code.

(2) Petitions to adjust lot lines between adjacent properties may be executed upon the recordation of an appropriate deed, and the recordation of an amended plat drawn according the provisions of Section 15.04.~~140~~090, Provo City Code, if:

(a) the adjoining property owners consent to the lot line adjustment, including owners adjacent to the subject property across the street, if applicable;

(b) no new dwelling lot or housing unit results from the lot line adjustment;

(c) the lot line adjustment does not violate applicable zoning ordinances; and

(d) the lot line adjustment does not result in remnant land that did not previously exist.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: August 23, 2023

***ITEM #1** Development Services requests amendments to the Conventional and Open Space Subdivision Requirements (Chapter 15.04) and the PD Overlay (Chapter 14.31). Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230098

Applicant: Development Services

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider the information presented. *The next available meeting date is September 13, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested amendments. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: Staff have recently reviewed the "Open Space Subdivisions" and PD Overlay regulations in review of recent proposals to the City and found that the current regulations are somewhat convoluted, difficult to apply, and may lead to undesired outcomes.

Neighborhood Issues: This is a citywide application, but no comments or issues have been reported to staff or posted on Open City Hall at the time of this report.

Summary of Key Issues:

- Current regulations in Chapters 14.31 and 15.04 are problematic.
- Staff have gone through a process to review areas where these codes can be made clearer and improved to produce good development.

Staff Recommendation: Staff recommends that the Planning Commission recommend approval of the proposed amendments to the City Council.

OVERVIEW

The Planning Division of Development Services is bringing forward some proposed amendments to the Provo City Code regarding “Open Space” subdivisions and “Performance Development” subdivisions, in Chapters 14.31 and 15.04.

One of the purposes of these proposals is to remove the “open space” subdivision option and move the beneficial regulations of that section into the “performance development” standards. Staff found that having both the open space and performance development option in the code was redundant and confusing.

Another reason for the requested changes is to make the performance development chapter clearer for the public and staff to use and review. Removing dated and confusing standards and calculations from Chapter 14.31 is necessary to produce a better product for the development community to use.

Lastly, adding new standards and best practices into Chapter 14.31 allows the city to receive better applications that benefit the current and future residents of Provo. Providing possible density bonuses for a variety of buildings within a subdivision or deed-restricted pricing on homes will hopefully incentivize builders to create developments that meet goals within the General Plan.

Staff have written these proposals and had them reviewed by other City Departments prior to placing them on the Planning Commission agenda. This report will summarize and analyze the proposed changes, section by section below.

STAFF ANALYSIS

15.04 Amendments

Again, the main purpose of the amendments of this Chapter is to remove the “open space” subdivision but leave the rest of the conventional subdivision standards alone. The majority of the proposed changes, then, are to delete any references to open space subdivisions or their application. Specifically, the following changes are being proposed:

Line 4 (20-35): A “purpose and objectives” for this chapter is not needed as it is simply a regulatory chapter describing how to subdivide land in Provo.

Line 5 (36-44): This “applicability” section was only in reference to open space subdivisions and can therefore be removed.

Lines 7-9 (75-222): Removal of “Open Space”, “Density and Open Space Determination”, and “Design Standards for Open Space Subdivision Lots and Structures”. The idea of these sections, with some of the same specifics, is brought over

to Chapter 14.31, for use in PD overlays. Making this change should bring about similar developments but would be applied more easily and with the assurance of quality development.

Lines 49-74: Correction of terms and code references.

Lines 242-247: Changing “conditional uses” to “permitted uses” on conservation lands is due to the direction that cities have received from the State to minimize conditional uses in zones. Because of that change to allow these items by-right on conservation lands, staff proposed a more specific version of “recreational activities” to avoid harmful uses that do not meet the intent of conservation areas.

Lines 326-333: Again, removing references to “open space” subdivisions.

Lines 348-505: Updating terms and practices to match current policy and administration of subdivisions.

14.31 Amendments

Line 14 (361-374): This change removes the “density bonus calculations” that have not been user-friendly and problematic to implement.

Line 15 (375-466): These changes include altering the purpose of this section from design requirements to “density bonus amenities” to bring in opportunities for developers to increase density by providing building variety or affordable housing. Existing requirements in this section are either covered by a different section of code or dated regulations that did not provide ideal environments.

Line 19 (579-583): This change is simply removing redundant fee language that does not need to be in this Chapter.

Lines 47-52: The definition of “collective driveway” was acting more like a regulation, which should not be in a definition section. In addition, the term was not found in the Chapter, so it is being removed.

Lines 76-78: Parking lot is already a defined term in Section 14.06 and has design regulations in Chapter 14.37.

Lines 91-97: Subdivisions are not done with a “project plan” and keeping that language confuses them with an actual Project Plan Application. Additionally, the explanatory language of how staff applies the PD to the zone map does not need to be codified.

Line 101: Adding the Agricultural zones as an option for the PD overlay may help to get more housing while keeping agricultural uses in the city.

Line 108: Staff believes that since these PD overlay subdivisions are typically in or around single-family, detached homes that a maximum of eight connected units was not desirable; but that the connection of six is more appropriate, as seen in the LDR Zone.

Lines 113-116: This section only applied to the R5 Zone, which is no longer in Title 14.

Lines 123-136: Staff have removed all the density adjustments from this section since they are now described in Sections 14.31.090 and 14.31.100.

Lines 150-151: Planning Commission no longer reviews subdivisions.

Line 167: Added language and standard for A1 Zones since it was added above as an option for combining; and removed dated references.

Lines 169-170: Added reference for new “Critical Hillside” Chapter.

Lines 171-194: Setbacks have been largely removed from the PD since the underlying zone setbacks would typically apply (unless adjusted per Section 14.31.060) but choose to define specific standards for a garage to ensure viable parking behind the garage.

Lines 226-271: Adjustments to “Compatibility Standards” helps to remove obstacles to building more housing using the PD tool.

Lines 285-289: Open space standards have been simplified and defined to be more usable spaces in PD environments.

Lines 325-346: Minor corrections.

Lines 351-360: Redefines how density bonuses work. This should simplify the drawing and reviewing of PD plans, making it easier to use the tool.

Lines 485-578: Updated terms and language to be consistent with other city codes, policies, and staff job titles.

CONCLUSIONS

Staff have carefully crafted these amendments over several drafts since spring of 2023 and have developed language that will hopefully be clearer and more accessible to developers. Staff supports these amendments moving forward to the City Council.

ATTACHMENTS

1. Proposed 15.04 Amendments
2. Proposed 14.31 Amendments

ATTACHMENT 1 – PROPOSED 15.04 AMENDMENTS

Chapter 15.04

~~CONVENTIONAL AND OPEN SPACE~~ SUBDIVISION REQUIREMENTS

Sections:

~~15.04.010 Purpose and Objectives.~~
~~15.04.020 Applicability.~~
15.04.0~~30~~010 Conceptual Integrated Development Street Layout Plan.
~~15.04.040 Open Space.~~
~~15.04.050 Density and Open Space Determination.~~
~~15.04.060 Design Standards for Open Space Subdivision Lots and Structures.~~
15.04.0~~70~~020 Land Uses for Conservation Areas.
15.04.0~~80~~030 Conservation Easements.
15.04.0~~90~~040 Conservation Area Design Standards.
15.04.~~100~~050 Protection of Natural Habitat.
15.04.~~110~~060 Guarantees and Covenants.
15.04.~~120~~070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.
15.04.~~130~~080 Preliminary Subdivision Plan.
15.04.~~140~~090 Final Subdivision Plan.
15.04.~~150~~100 Vacating or Changing a Subdivision Plat.

~~15.04.010~~

~~Purpose and Objectives.~~

~~The purpose of this Chapter is to regulate the subdivision of land as set forth in this Title. Optional open space subdivision regulations are provided to encourage imaginative and efficient land utilization and to provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required for residential development. This is accomplished by providing greater flexibility in the location of buildings on the land, the conservation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of the City by allowing open space~~

~~residential subdivisions planned as a whole, single complex. Such open space subdivisions are intended to incorporate a development theme which includes the elements of usable open spaces, amenities, a well-planned circulation system, and attractive entrances as part of the design. Such open space subdivisions are also intended to provide a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences so that the community's population diversity may be maintained.~~

~~**15.04.020**~~

~~**Applicability.**~~

~~All subdivisions proposed in A1, RA, and R1.20 to R1.8 zones, regardless of location within the City, may apply the open space subdivision requirements of this Title unless the Planning Commission determines that the area to be developed would be better served by a conventional subdivision. Conventional and open space subdivisions shall conform with applicable requirements of this Title. The Planning Commission may require that open space subdivision regulations be applied in instances where primary and secondary conservation areas are in jeopardy and need preservation.~~

15.04.0~~30~~010

Conceptual Integrated Development Street Layout Plan.

(1) All subdivisions require the submission of a conceptual street layout plan for undeveloped or partially developed property within five hundred (500) feet of the proposed subdivision. Such plan shall be submitted with an application for preliminary ~~plan~~plat or final ~~plan~~plat approval and such approval shall be subject to ~~the Planning Commission's~~staff review of the conceptual street layout plan for compliance with this Section. If the proposed development consists of less than three (3) acres or less than ten (10) lots and a preliminary ~~plan~~plat is not required under Section 15.04.~~130~~080(1), Provo City Code, the conceptual street layout plan shall be submitted independently and/or with the application for final ~~plan~~plat approval.

(2) The conceptual street layout plan shall provide general compliance with the following sections of the Provo City Code:

(a) Section 15.03.070, Provo City Code, Developable Land.

(b) Section 15.03.200, Provo City Code, Street Standards.

(c) Section 15.03.210, Provo City Code, Block Standards.

(d) Section 15.03.220, Provo City Code, Lot Standards.

(e) Section 15.05.160, Provo City Code, Hillside Development Standards.

(3) Preliminary plans shall integrate with the conceptual street layout plan. The conceptual street layout plan is required for the purpose of demonstrating that the proposed subdivision will not cause detriment to the integrated development of the overall area.

(4) Conceptual street layout plans demonstrating compliance with this Section shall not be construed as having regulatory authority over properties included in the plan that are not the subject of application for preliminary plan or final plan approval. Future developers of these properties may propose alternative street layouts pursuant to the standards identified in this Section and all other regulations of Titles 14 and 15, Provo City Code.

(5) Notwithstanding Subsection (4) of this Section, should ~~the Planning Commission~~staff determine that a specific conceptual street layout plan is crucial to ensuring the integrated development of an area, the ~~Planning Commission, or their designee,~~staff may forward a recommendation to the Municipal Council to amend the local street plan pursuant to Section 14.03.~~040~~050, Provo City Code.

~~15.04.040~~

~~Open Space.~~

~~The location of open space in open space subdivisions shall be consistent with policies contained in the General Plan, as interpreted by the Planning Commission, and with the requirements contained in this Chapter. The size of secondary conservation areas shall be determined as set forth in Section 15.04.050. Such areas may be used to buffer primary conservation areas from developable land.~~

~~(1) Full density credit shall be allowed for secondary conservation areas that would be buildable under local, state and federal regulations but for the requirement to provide a~~

~~secondary conservation area pursuant to Section 15.04.050. Such density credit may be applied to other unconstrained parts of an open space subdivision.~~

~~(2) Yard areas within lots shall not be counted toward meeting the minimum open space requirement. The Planning Commission may consider applying all or a portion of primary conservation areas to meeting the open space requirements below provided that such primary conservation areas are enhanced and made usable for active or passive recreation. The majority of the lots within the subdivision should abut open space.~~

~~15.04.050~~

~~Density and Open Space Determination.~~

~~(1) Density in a subdivision shall be determined using the developable land of the proposed development set forth in 15.03.070. Density shall be computed using net rather than gross acreage.~~

~~(2) A lot yield drawing shall be submitted indicating the number of lots could be created on developable land by conforming to conventional subdivision requirements and using the underlying zone as the basis for calculating density. The number of conventional subdivision lots that could be created in conformance with the requirements of the underlying zone shall establish the base density for an open space subdivision. Such density may be increased subject to receiving a density bonus and approval from the Planning Commission as provided in this Section.~~

~~(3) For every one percent (1%) increase in open space, base density may be increased by one percent (1%) as long as each lot conforms to minimum lot size requirements as shown on the tables below. For every one percent (1%) decrease in open space, base density shall be decreased by one percent (1%). In the event an open space impact fee is established, such fee may be paid in lieu of decreasing density.~~

~~(4) Minimum open space and lot yield in an open space subdivision shall be determined as shown on the tables below.~~

~~(a) A1.1 zone (base density = 1 d.u./43,560 sq. ft.)~~

~~Minimum Open Space~~	~~Lot Yield~~	~~Lot Size Min.~~
~~50 percent (base)~~	~~10.0~~	~~8,000~~
~~55 percent~~	~~10.5~~	
~~60 percent~~	~~11.0~~	
~~65 percent~~	~~11.5~~	
~~70 percent~~	~~12.0~~	
~~75 percent~~	~~12.5~~	

~~(b) RA and R1.20 zones (base density = 1 d.u./21,780 sq. ft. or 1 d.u./ 20,000 sq. ft.)~~

~~Minimum Open Space~~	~~Lot Yield~~	~~Lot Size Min.~~
~~35 percent (base)~~	~~20~~	~~6,000~~
~~40 percent~~	~~21~~	
~~45 percent~~	~~22~~	
~~50 percent~~	~~23~~	

~~(c) R1.10 zone (base density = 1 d.u. / 10,000 sq. ft)~~

Minimum Open Space	Lot Yield	Lot Size Min.
25 percent (base)	43.5	5,000
30 percent	45.6	
35 percent	47.8	

(d) In the R1.8 zone: (base density = 1 d.u./ 8,000 sq. ft)

Minimum Open Space	Lot Yield	Lot Size Min.
20 percent (base)	54	5,000
25 percent	56.7	

(5) A density bonus may be allowed by the Planning Commission when one (1) of the following public benefits is provided:

(a) A density bonus for the dedication and improvement of land for public use (including active and passive recreation areas, municipal buildings, parks, trails, etc.) may be granted at the rate of a maximum of three (3) dwelling units per acre of conservation land dedicated for public use. Any proposed park shall be approved by the Parks and Recreation Board and shall comply with the Parks Department Master Plan. Dedicated conservation land shall conform to General Plan policies, particularly those sections dealing with active recreational facilities and passive trail networks, as determined by the Planning Commission.

(b) A density bonus may be granted if a fund is created to generate additional income for the sole purpose of off-setting the continuing cost of maintaining the conservation land (such as mowing meadows, weeding, paying insurance premiums and local taxes),

~~including costs associated with active or passive recreation facilities. Spending from this fund shall be restricted to expenditure of interest so that principal may be preserved. Assuming an annual average interest rate of five percent (5%), the amount designated for an endowment fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm or organization acceptable to the Planning Commission, with experience in managing conservation land and recreational facilities. The fund shall be transferred by the developer to the entity having ownership and maintenance responsibilities of the open space (such as a homeowner's association, a land trust, or the City) prior to occupancy. Not more than half of the bonus density awarded to a particular development may come from this category.~~

~~(c) A density increase is permitted where the open space subdivision proposal provides on site housing opportunities for low or moderate income families. The affordable housing shall be intermixed throughout the project and shall be proportional to the overall project or for each phase. For each affordable housing unit provided under this Subsection, one (1) additional building lot, dwelling unit or accessory dwelling unit shall be permitted up to a maximum of fifteen percent (15%) increase in dwelling units above the base density. For the purpose of this Subsection, affordable housing means units offered for sale at prices available to families earning seventy percent (70%) to one hundred twenty percent (120%) of the county median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development. If accessory housing units are provided, they shall be conform to the requirements of Title 14.~~

~~(6) A density of bonus of two and one half percent (2 1/2%) above base density may be granted to a project for each of the amenities set forth in this Subsection as determined by the Planning Commission. The total density bonus resulting from such amenities and any density bonus granted under Section 15.04.050(5) shall not exceed twenty five percent (25%) over base density.~~

~~(a) At least seventy five percent (75%) of the dwellings are designed with an active or passive solar feature. Qualified solar features include solar water heaters, trombe walls, earth insulation of a majority of building walls, building design having south facing main exposures and solar access windows. Similar solar features may be approved by the Planning Commission.~~

~~(b) Special features such as fountains, streams, ponds, sculptures, lighting, buildings or other elements that establish a strong design theme for the subdivision and are utilized in highly visible locations. Such features shall be first reviewed and approved by the Design Review Committee.~~

~~(c) An active recreational amenity primarily for the use of the residents of the subdivision. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other similar features approved by the Planning Commission. The Planning Commission shall determine the amount of the bonus based on the cost of the amenity, its benefit to the residents of the subdivision, its size, and the number of amenities in the subdivision.~~

~~(d) The provision of day care within the subdivision accessible to all residences therein.~~

~~(e) Landscaping installed for all residential lots including front yards and all open space. The minimum requirements for such landscaping shall be as follows:~~

~~(i) Each dwelling unit shall have a minimum of three (3), one and one-half (1 1/2) inch caliper, deciduous trees or four (4) foot tall evergreen trees, four (4) shrubs, and building foundation planting of appropriate shrubs, flowers, or ground-cover. All shrubs shall be a minimum size of five (5) gallons.~~

~~(ii) Landscaping in the park strip in the street right-of-way shall have a unified design theme. Berming is encouraged to separate and screen residential areas from arterial and collector streets. All landscaping installed within a park strip shall be installed in accordance with Chapter 15.20, Provo City Code.~~

~~(iii) Landscaping shall include a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views. 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 wind breaks, screening, and accent planting.~~

~~(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory living~~

~~spaces. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory living spaces, meeting the standards of Chapter 14.30, Provo City Code, may be located above or below a main dwelling unit or above a garage.~~

~~15.04.060~~

~~Design Standards for Open Space Subdivision Lots and Structures.~~

~~(1) Lots within open space subdivisions shall be exempt from the minimum development requirements of the applicable zone, but minimum lot size shall be limited as set forth in Section 15.04.050.~~

~~(2) Access to dwelling units on residential lots shall be from interior streets and not from streets bordering the subdivision. Alleys should be used wherever possible providing access to rear facing garages.~~

~~(3) Yard requirements shall be as follows:~~

~~(a) each lot shall have a front yard of not less than twenty (20) feet in depth;~~

~~(b) each lot shall have a side yard of not less than eight (8) feet. The distance between principal buildings on each lot shall be a minimum of sixteen (16) feet;~~

~~(c) on corner lots, the side yard contiguous to the street shall be not less than sixteen (16) feet; and~~

~~(d) each lot shall have a rear yard of not less than twenty (20) feet.~~

~~(4) In order to reduce potential conflicts between new residents and adjoining agricultural or recreational practices and activities, the width of the conservation open space adjacent to residential lots shall be maximized.~~

~~(5) Detached housing shall vary in design and materials as follows:~~

~~(a) Any development of fifty (50) or more one-family or two family detached dwelling units shall have at least four (4) different types of housing models. Any development of fewer than fifty (50) one-family dwelling units shall have at least three (3) different types of~~

~~housing models. The developer shall include, in the application for approval of the preliminary subdivision development plan, documentation showing how the development will comply with the foregoing requirement.~~

~~(b) Each dwelling unit model type shall have at least three (3) characteristics which clearly and obviously distinguish it from other model types, including different floor plans, exterior materials, roof lines, garage placement, placement of the footprint on the lot, and/or building face.~~

~~(c) The requirements of subparagraphs (a) and (b) above shall not apply to an open space subdivision containing ten (10) or fewer dwelling units.~~

15.04.~~070~~020

Land Uses for Conservation Areas.

(1) If development must be located on open fields or pastures because of greater constraints in all other parts of a site, dwellings should be sited on the least prime agricultural soils, or soils rated lowest in productivity.

(a) Open space may be left in a natural state (for example, woodland, fallow field, managed meadow).

(b) Agricultural and horticultural uses, including raising crops or livestock as permitted in the underlying zone, shall be permitted on conservation land, with the exception of raising of mink, hogs and other animals likely to produce highly offensive odors, in large numbers.

(c) Animal rights shall not be permitted on any lots smaller than the minimum lot size required in the underlying zone.

(d) Neighborhood open space uses such as picnic areas, community gardens, trails and similar low-impact passive recreational uses shall be permitted uses on conservation lands. Motorized off-road vehicle areas, rifle ranges and other uses which may have a direct impact on the adjoining residential properties shall be prohibited on conservation lands.

(e) Public access to conservation areas shall be provided at a width of at least twenty (20) feet unless otherwise approved by the Planning Commission. Such access ways may be designed at a width of ten (10) feet if intended solely for bicycle or pedestrian use.

(2) ~~Conditional~~Permitted uses on conservation lands shall be limited to:

(a) equestrian facilities;

(b) wholesale nurseries and associated buildings;

(c) golf courses;

(d) utility facilities; and

(e) ~~Other~~ outdoor recreational facilities ~~as determined by the Planning Commission.~~

15.04.~~080~~030

Conservation Easements.

(1) To protect primary and secondary conservation areas from future development, conservation easements may be established as provided in the Utah Land Conservation Easement Act. In the event of a conflict between such Act and this Title, the provisions of the Act shall apply.

(2) A conservation easement is an interest in land and runs with the land encumbered by the easement and is valid whether it is appurtenant or in gross. A conservation easement shall be enforceable by the holder of the easement and its successors and assigns against the grantor and its successors, heirs and assigns.

(3) Any property owner may grant a conservation easement to a charitable organization which qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code or to a governmental entity by purchase, gift, devise, grant, lease or bequest in the same manner and with the same effect as any other conveyance of an interest in real property. A conservation easement shall be in writing and shall be recorded in the Office of the Utah County Recorder. The instrument that creates a conservation easement shall:

(a) identify and describe the land subject to the conservation easement by legal description;

(b) specify the purpose for which the easement is created, and

(c) include a termination date or a statement that the easement continues in perpetuity.

(4) Any qualified organization or entity that receives a conservation easement shall disclose to the easement's grantor, at least three (3) days prior to the granting of the easement, the types of conservation easements available, the legal effect of each easement and that the grantor should contact an attorney concerning any possible legal and tax implications of granting a conservation easement.

(5) A conservation easement may be terminated, in whole or in part, by release, abandonment, merger, non-renewal, conditions set forth in the instrument creating the conservation easement, or in any other lawful manner in which easements may be terminated if approved by the Municipal Council after receiving a recommendation from the Planning Commission.

(6) A conservation easement may be enforced or protected by injunctive relief granted by a court in a proceeding initiated by the grantor or holder of the easement. In addition to injunctive relief, the holder of a conservation easement is entitled to recover monetary damages. The holder of a conservation easement may enter the real property subject to the easement at reasonable times and in a reasonable manner to ensure compliance.

(7) No conservation easement, or right-of-way or access to a conservation easement may be obtained through the use of eminent domain.

15.04.~~090~~040

Conservation Area Design Standards.

(1) Fragmentation of conservation areas shall be minimized so that they are not divided in smaller isolated parcels. Parcels less than one hundred (100) feet wide should be avoided, unless necessary to connect other significant areas, such as streams or trails. Prime farm land should be considered for conservation wherever possible in order to continue to promote the farming activity.

(2) Conservation areas shall be designed as part of larger continuous and integrated open space systems.

(3) Conservation areas shall be designed to provide buffers and to protect scenic views as seen from roadways and from public parks.

(4) A portion of conservation areas may be commonly used by subdivision residents for agricultural or horticultural purposes.

(5) No portion of any building lot may be used for meeting minimum amount of required conservation land area; however, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum amount of required conservation land.

(6) All conservation areas that are not wooded, farmed or maintained as conservation meadows shall be maintained or/and landscaped as determined by the Planning Commission. The use of berming is encouraged to buffer residential areas from arterial and collector streets and incompatible land uses.

(7) A maintenance plan shall be prepared for common open space areas. Such plan shall be submitted with an open space subdivision application and shall, at a minimum, address the following:

(a) vegetation management;

(b) watershed management;

(c) debris and litter removal;

(d) fire access and suppression;

(e) maintenance of public access and/or maintenance of limitations to public access;

(f) horticultural and agricultural management; and

(g) other factors deemed necessary by the Planning Commission (such as funding, staffing, insurance and remedies in the case of default).

15.04.~~100~~050

Protection of Natural Habitat.

Conservation purposes include the protection of a fish, wildlife or plant habitat. This would include the preservation of a habitat or environment that to some extent has been altered by human activity if fish, wildlife, or plants exist there in a relatively natural state as determined by the Utah Division of Wildlife Resources.

15.04.~~110~~060

Guarantees and Covenants.

(1) Adequate guarantees shall be provided to protect all primary and secondary conservation areas from future development. The Chief Building Official shall not issue a Certificate of Occupancy for any structures in such subdivisions until all required guarantees have been submitted to and approved by the Planning Commission. ~~The developer of an open space subdivision may elect any of the following to preserve conservation areas:~~

~~(a) Furnish and record protective covenants which will guarantee the retention of the open land area.~~

~~(b) Create a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.~~

~~(c) Establish a conservation easement restricting the area against any future building or use, except as approved as part of the open space subdivision.~~

(2) The developer shall be required to develop and provide for the maintenance of all common open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City accepts dedication and approves the annexation of the property to said park.

(a) The care and maintenance of such open space shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plat approval.

(b) Maintenance of open space reservations shall be managed by persons, partnerships, or corporate entities in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

15.04.~~120~~070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.

Notwithstanding the provisions of Section 15.01.020, Provo City Code, the following steps or procedures shall be followed in order to obtain approval of a subdivision:

(1) *Step 1.* Any person, partnership, firm, or corporation wishing to construct a subdivision with three (3) acres or more or ten (10) lots or more, ~~shall~~may first participate in a preapplication conference with the ~~Plan Coordinating~~Coordinator Review Committee.

(2) *Step 2.* If the proposed development is located within the high water table area as defined in Section 15.03.010, Provo City Code or is regulated by Chapter 15.05 (Sensitive Lands), Provo City Code, compliance with the same shall be presented at the time of application for a preliminary or final subdivision.

(3) *Step 3.* A recent policy of title insurance or a preliminary title report showing that the person(s) listed as the owner(s) in the owner's dedication certificate on a plat or development have sufficient control over the premises to effectually dedicate streets within the development where required and to follow through with all other requirements of the City Code. The developer shall provide a tax clearance indicating that all taxes, interest, and penalties owing on the subject property have been paid.

(4) *Step 4.* The developer has a preliminary plat prepared by a licensed surveyor according to City standards, and shall include a vicinity plan, drawn at a readable scale, indicating the location of property to be developed and all adjoining property under the ownership of the developer to be developed as part of a future development.

(5) *Step 5.* Developer submits a PDF of the preliminary plat with a completed application, required fees, ~~engineer or surveyor's computer generated information disk~~ and all supporting documents to ~~the Planning Commission~~ city staff.

(6) *Step 6.* ~~Planning Commission or designated staff, in conjunction with the City Engineer and others as deemed appropriate,~~ City Staff reviews the preliminary plat for compliance with the Provo City Code. If corrections to said plat are necessary, or if associated drawings or studies are required, such corrections shall be resolved and approved by the City Engineer and others as deemed appropriate before the plat is recorded. In any subdivision contiguous to property owned by a public entity, such entity shall be notified of the proposed subdivision and shall be invited to review the preliminary plat.

(7) *Step 7.* City staff approves, conditionally approves or denies preliminary plat based upon findings that said plat does or does not comply with applicable provisions of the Provo City Code. Preliminary approval shall expire one (1) year from the date the preliminary approval was granted unless a final plat is submitted and approved for all or a part of the subdivision. When a final subdivision does not cover the entire area included in a preliminary subdivision plat, approval of the unplatted area shall be extended to one (1) year from the date of final approval of a final plat. After expiration of the preliminary approval, no final approval shall be granted unless the developer makes a complete re-submittal including new drawings and payment of applicable fees.

(8) *Step 8.* Developer has a final plat prepared by a licensed surveyor according to City standards and submits such plat, together with the required improvement and other drawings done by a licensed engineer, and all other supporting documents and reports, along with required fees. The developer shall provide ~~two (2)~~a permanent reproducible ~~copies~~copy on Mylar of the final proposed plat. A final subdivision application shall expire one (1) year from the date of the application unless final approval is received, or sufficient progress has been made toward final approval as determined by the Development Services Director.

(9) *Step 9.* The ~~Planning Commission or designated~~ city staff reviews the final plat, in conjunction with the City Engineer and others as deemed appropriate.

(10) *Step 10.* Developer posts a bond in the form of cash or an irrevocable letter of credit, along with a subdivision improvements agreement, guaranteeing installation of the required improvements.

(11) *Step 11.* The City Engineer, when satisfied that the plat conforms with all engineering concerns, signs and seals the plat, prior to forwarding the plat to Development Services Department. The Development Services Director~~, on behalf of the Planning Commission,~~ signs the plat after receiving a recommendation from City departments for approval or conditional approval.

(12) *Step 12.* The Mayor approves, disapproves, or conditionally approves the final plat with modifications as necessary to make the final plat conform to applicable City standards and after final approval, the plat is recorded in the office of the Utah County Recorder.

(13) *Step 13.* After the final plat is recorded building permits ~~or fast tracks~~ may be issued for individual subdivision lots.

15.04.~~130~~080

Preliminary Subdivision Plan.

(1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3) acres or greater or ten (10) lots or greater.

(2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City a plan, in an approved electronic format, showing the proposed development layout, drawn to scale, and the following information:

(i) A complete and accurate legal description;

(ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor of the development, and the owners of the land immediately adjoining the land to be subdivided;

(iii) Proposed name of the development;

(iv) The location of the development as forming a part of the larger tract or parcel where the plan submitted covers only a part of the developer's tract;

(v) A conceptual integrated development plan meeting the requirements of Section 15.04.~~030~~010, Provo City Code;

(vi) A preliminary infrastructure plan for providing necessary streets, water, sewer, storm drainage, and electrical distribution for the entire tract including the point from which said services are to be extended;

(vii) A summary indicating the total area within the development, total area and dimensions of each lot, and proposed net density of the development;

(viii) Any information noted as required in the Provo City Public Works Department Development Guidelines referenced in Section 15.03.020(3)(b)(ii), Provo City Code.

(3) Based on the size, scope or complexity of the development proposal, staff may require any other information required to ensure that the proposed project complies with applicable requirements of the Provo City Code and standards and specifications adopted by the City.

(4) A final subdivision plan, meeting the requirements of Section 15.04.~~140~~090, Provo City Code, shall be submitted within twelve (12) months of the ~~Planning Commission~~staff approval of the preliminary subdivision plan. If a final subdivision plan is not submitted within the required time period, the City may initiate proceedings to rezone the property back to the zone classification that existed on the property prior to the approval.

(5) If an applicant seeks to revise a preliminary subdivision plan, the new plan shall be subject to all new sections of the Provo City Code and other new City ordinances in effect at that time.

15.04.~~140~~090

Final Subdivision Plan.

(1) A final subdivision plan shall be prepared for all developments which require a recorded plat as determined by the City Engineer. ~~In instances where a plat is not required, a lot line adjustment application must be verified and signed by the City Engineer and Development~~

~~Services Director, or designee, and recorded with all other applicable documents required by the Utah County Recorder.~~

(2) A final subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City final drawings, in an approved electronic format. The final drawings or plans shall be reviewed, stamped and signed by a professional engineer and include the following:

(i) Development name and the general location of the development;

(ii) A north point and scale on the drawing and the date;

(iii) *Accurately drawn boundaries, showing the proper bearings and distances, properly tied to public survey monuments.* These lines should be heavier than street and lot lines to clearly define said subdivision boundaries;

(iv) The names, width, lengths, bearings, and curve data on center lines of proposed public or private streets, alleys or easements. All proposed streets shall be named or numbered in accordance and in conformity with the street naming and numbering system of the City;

(v) Boundaries, bearings and dimensions of all portions within the development, as intended to be dedicated to the use of the public;

(vi) Lines, dimensions, bearings, and numbers of all lots;

(vii) *Blocks and parks reserved for any reason within the development.* All lots and blocks shall be numbered consecutively under a definite system;

(viii) Drawings showing plan layout, profile, and detailed design for sewer systems, water systems, storm systems and electrical service lines, including street lights;

(ix) Plan, profile and typical cross-section drawings of all streets, bridges, culverts and other drainage structures;

(x) Grading and drainage plan indicating the finished grade by solid line contours superimposed on dashed line contours indicating the existing topography for the area of the final plan. The plan shall identify natural slopes which exceed thirty percent (30%) or greater slope and include quantities of borrowed or excess material;

(xi) All fences, barriers or landscaping as required;

(xii) All special improvements required as conditions of development approval;

(xiii) A final plat, meeting Provo City Standards, prepared by a professional land surveyor.

(3) Upon notice of final approval, one (1) copy of the final plat on a twenty-four (24) inch by thirty-six (36) inch mylar shall be submitted as part of the final plan approval.

(4) All final subdivision plans shall reference any related previously approved preliminary subdivision plan.

(5) The final subdivision plan shall conform to the preliminary subdivision plan, except in those instances where modifications have been required.

(6) A final subdivision plan application shall be subject to the expiration terms stated in Section 15.0, Provo City Code.

15.04.~~150~~100

Vacating or Changing a Subdivision Plat.

(1) A petition to vacate, alter or amend an entire plat, or to vacate a street, or alley in a subdivision shall conform to Utah Code.

(2) Petitions to adjust lot lines between adjacent properties may be executed upon the recordation of an appropriate deed, and the recordation of an amended plat drawn according the provisions of Section 15.04.~~140~~090, Provo City Code, if:

(a) the adjoining property owners consent to the lot line adjustment, including owners adjacent to the subject property across the street, if applicable;

(b) no new dwelling lot or housing unit results from the lot line adjustment;

(c) the lot line adjustment does not violate applicable zoning ordinances; and

(d) the lot line adjustment does not result in remnant land that did not previously exist.

Chapter 14.31

PD - PERFORMANCE DEVELOPMENT OVERLAY ZONE

Sections:

14.31.010 Purpose and Objectives.
14.31.020 Definitions.
14.31.030 Use In Combination.
14.31.040 Zones With Which the Planned Development Zone May Be Combined.
14.31.050 Permitted Uses.
14.31.060 Variations to Underlying Zone Permitted.
14.31.070 Density Determination.
14.31.080 Minimum Performance Standards.
14.31.090 Density Bonus.
~~**14.31.100 Density Bonus Calculations.**~~
14.31.~~110~~100 Density Bonus Amenities ~~Design Requirements.~~
14.31.~~130~~110 Concept Plan Approval.
14.31.~~140~~120 Final Project Plan Approval.
14.31.~~150~~130 Guarantees and Covenants.
~~**14.31.160 Fees.**~~
14.31.~~170~~140 Appendix.

14.31.010

Purpose and Objectives.

(1) The purpose of the Performance Development Overlay Zone is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to insure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of Provo City.

(2) A Performance Development (PD) is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open spaces, diversity of lot design or residential use, amenities, a well-planned circulation system, and attractive entrances as part of the design. The incorporation of one (1) or two (2) of these elements into a development does not make a PD. The combination of all these elements is necessary for the development of a PD.

14.31.020

Definitions.

For the purposes of this Chapter, certain words and phrases have the following meanings:

"Alley" means a public or private vehicular street designed to serve as secondary access to the side or rear of properties whose principal frontage is on some other street. See Chapter 15.03, Provo City Code.

"Base density" means the maximum number of residential units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied.

"Bonus density" means the maximum number of residential units per developable acre in the PD allowed when the project complies with the bonus density design requirements of this Chapter.

~~**"Collective driveway"** means a driveway, at least twelve (12) feet in width, serving not more than two (2) lots, or two (2) residential dwelling units, or twenty (20) feet in width serving not more than two (2) lots and four (4) single residential dwelling units and not exceeding one hundred twenty (120) feet in length. Except that in hillside areas (See Section 15.08.160(5)(b), Provo City Code) a collective driveway, at least twenty (20) feet in width may extend three hundred fifty (350) feet.~~

"Developable land" means land under thirty percent (30%) slopes which is capable of being improved, subject to the provisions Chapter 15.08 of the Provo City Code, with landscaping, recreational facilities, buildings, or parking. 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 land, and must be subtracted out of the total acreage before the

density calculation is made. (Access aisles in parking lots and driveways shall not be considered private streets for purposes of this Section.)

"Developed common activity area" means open green space which is designed to provide activity areas for use by all residents such as playgrounds, recreational courts, picnic pavilions, gazebos, and water features. Common developed activity areas shall be held by all residents in common ownership through a homeowners association or shall be available for use by all residents if the PD will be held in single ownership.

"Driveway" means a paved area used for ingress or egress of vehicles, and allowing access from a street to one (1) building, structure, or facility.

"Gross acreage" means the total amount of land in a PD development.

"Net acreage" means the total amount of land in a PD development excluding rights-of-way or roads.

"Open green space" means a planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership that is unoccupied and unobstructed by buildings and hard surface, such as asphalt or cement, 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.

~~**"Parking lot"** means an open area, other than a street or alley, used for the parking of more than four (4) automobiles whether for free, or for compensation. Parking spaces shall not be provided within a required front yard or side yard adjacent to the street on a corner lot.~~

"Parking lot aisle" means the traveled way by which cars enter and depart parking spaces. Aisle width standards are set forth in Section 14.37.100, Provo City Code. Parking aisles shall not be considered streets for purposes of this Chapter.

"Periphery" means a one hundred (100) foot depth around the perimeter of the project measured inward from the property line.

14.31.030

Use In Combination.

The Performance Development (PD) overlay zone may be used in combination with existing conventional zones as designated herein, and the provisions of the performance development overlay zone shall become supplementary to the provisions of the zone with which it is combined. The PD zone shall not be applied to a land area as an independent zone. Property to which the PD zone has been applied shall be developed only in conformance with an approved ~~project~~ plan. When used in combination with the designated zones, the Performance Development zone designated (PD) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. ~~When applied to land area, said combined designation shall be shown on the Zone Map of Provo City as set forth in the following example:~~

~~Example: If the Performance Development (PD) zone were being combined with the Residential zone (R1), it would be designated on the Zone Map of Provo City as "R1(PD)."~~

14.31.040

Zones With Which the Planned Development Zone May Be Combined.

The Performance Development overlay (PD) zone may be combined with the following zones: A1, RA, R1, and R2 zones.

14.31.050

Permitted Uses.

Uses permitted in the Planned Development overlay (PD) zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the PD zone has been combined, except as follows:

(1) In one and two-family zones, dwelling units may be clustered in common-wall construction with a maximum of ~~eight (8)~~six (6) consecutively attached units. Such units may have no more than two (2) walls in common, with no units above other units.

(2) Accessory uses to the PD which are located in a common main building may be permitted. Accessory uses shall include recreational facilities and structures, day care centers, personal services, and RV parking, when approved as part of the final development plan.

~~(3) When combined with an R5 zone only, the following service and commercial uses may be allowed in conjunction with an apartment development provided said uses are located on the ground floor only, meet all of the off-street parking requirements of Chapter 14.37, Provo City Code and are approved in accordance with all of the standards and procedures of this Chapter.~~

~~Use No.~~	~~Use Classification~~
~~4811~~	~~Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4821~~	~~Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4824~~	~~Gas pressure control stations~~
~~4831~~	~~Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4835~~	~~Irrigation distribution channels~~
~~4836~~	~~Water pressure control stations and pumping plants~~

Use No.	Use Classification
4841	Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)
5410	Groceries (convenience market, less than five thousand (5,000) square feet)
5814	Cafeterias, lunch counters, snack bars, etc., (non-auto oriented)
5912	Prescription pharmacy
5941-42	Books, magazines, stationery
6111	Bank branch (non-auto oriented)
6216	Self service laundry

Use No.	Use Classification
6230	Beauty and barber services
6252	Laundry and dry cleaning (pick-up station only)
6339	Stenographic services
6500	Professional Services (except 6515)
6910	Religious activities

14.31.060

Variations to Underlying Zone Permitted.

Upon combining the PD zone with an appropriate existing zone, variations from the development standards of said underlying zone may be permitted provided the variations are specifically adopted as part of the approved project plan or approved supporting documents. Variations, however, shall not include changes in the permitted uses allowed by the zone with which the PD zone has been combined, except to the extent set forth herein.

(1) *Base Density.* The maximum number of residential units allowed per developable acre in a PD which meets only the minimum development requirements of this Chapter shall be calculated using the Lot Area Per Dwelling Requirement of the underlying zone:

ZONE	LOT AREA/DWELLING
RA	1 unit per 21,780 square feet
R1.20	1 unit per 20,000 square feet
R1.15	1 unit per 15,000 square feet

~~R1.10 1 unit per 10,000 square feet~~

~~R1.9 1 unit per 9,000 square feet~~

~~R1.8 1 unit per 8,000 square feet~~

~~R1.7 1 unit per 7,000 square feet~~

~~R1.6 1 unit per 6,000 square feet~~

~~R2 2 units per 8,000 square feet~~

~~(2) Notwithstanding the foregoing provision, in no event shall the maximum number of residential units exceed the number of units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied. Such maximum number of residential units shall be reasonably determined by the Planning Commission using development criteria and ordinance requirements applicable to the zone with which the PD is proposed to be combined.~~

~~(3) In the event an approved project plan is proposed to be amended and a density increase is requested, the Planning Commission may, subject to the requirements of this Chapter, approve such density increase; provided, however, that any density increase shall not exceed by more than ten percent (10%) the density shown on the originally approved project plan.~~

14.31.070

Density Determination.

Density in a PD shall be determined by using the "developable land" of the entire proposed development. Developable land is land under thirty percent (30%) slope which is capable of being improved with landscaping, recreational facilities, buildings, or parking. Land devoted to street usage in PD subdivisions shall not be considered developable acreage and must be subtracted out of the total acreage used to determine density. Refer to Figure 14.31.070 at the end of this Chapter.

14.31.080

Minimum Performance Standards.

A performance development established under the provisions of this Chapter shall conform to the standards and requirements of this Section. Project plans shall be approved or denied on the basis of performance measured against development standards adopted in accordance with this Chapter. ~~and on the findings made by the Planning Commission as required by Section 14.31.120(2).~~

(1) *General Standards.*

(a) *Single Ownership or Control.* The area proposed for a performance development shall be in one (1) ownership or control during development to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans. Mere development agreements between individuals shall not satisfy this requirement. Individual ownership, partnerships, corporations, and other legally recognized entities are acceptable.

(b) *Scope of Plan.* A plan for the development of a performance development shall cover the entire area proposed for development. Upon approval the development shall be strictly in accordance with the plan. Areas not proposed for development shall be designated as open space and shall conform to minimum landscaping requirements of this Chapter.

(c) *Design Team.* The final development plans shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.

(d) *Minimum Area.* The minimum land area for a performance development shall be as follows:

A1 zone	5 acres
RA zone	5 acres

R1 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~
R2 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~

(e) *Hazardous Conditions.* If located in "sensitive lands," "high water table," and/or "floodplain," the project must comply with all provisions of the Sensitive Lands, Critical Hillside, and/or Floodplain sections of the Provo City Code.

(f) *Setbacks.* Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line. ~~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 development abuts a street and a minimum twenty (20) foot setback at those locations where development abuts other parcels of land outside the project. Departures from these setbacks must be justified by unique and unusual circumstances related to the site, or for reasons of improved design.~~

~~(i) Notwithstanding the above provision, if the development has subdivided one-family lots which abut other parcels of land, the specific zone regulations shall apply for rear and side yard setbacks on the subdivided lots. The required setback area shall be landscaped.~~

~~(ii) Structures shall be placed in such a way as not to impair lines of sight for pedestrian or vehicular traffic. Placement shall be in accordance with the provisions of Section 14.34.100, Provo City Code, Clear Vision Area - Corner Lots.~~

~~(iii) Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line.~~

~~(iv) A minimum ten (10) foot landscaped setback shall be maintained from all interior roadways.~~

~~(v) Minimum distance between main buildings in the development shall be fifteen (15) feet for single story buildings, twenty (20) feet for two story buildings, and twenty-five (25) feet for three or more stories. Refer to Figure 14.31.080(a) at the end of this Chapter.~~

(g) *Fence Height.* If fencing is proposed adjacent to a public or private street, the maximum fence height shall be three (3) feet for fences located in the required front yard and side yard setback facing a street as determined in the underlying zone. Fence heights located outside of these setbacks shall be limited to a maximum height of six (6) feet. 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:

(i) Not isolate surrounding neighborhoods;

(ii) Be consistent with the theme of the development; and

(iii) Be compatible with the neighborhood.

If fencing isolates property between the fence and the public street, the development shall provide means to ensure continued maintenance of this area. Refer to Figure 14.31.080(b) at the end of this Chapter.

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

(i) *Utilities.* All utilities shall be placed underground, including telephone, electrical, and television cables. Dwelling units under separate ownership shall have separate utility metering, unless otherwise approved by the Energy and Water Departments.

(j) *Phasing.* If the project is to be done in phases, no remnant parcels shall be created. Any land not proposed for development shall be designated as open space.

(k) *Air Quality.* The use of coal or wood burning furnaces, fireplaces or other heating devices which burn coal are prohibited unless especially equipped with devices proven to minimize air pollution.

(l) *Water Conservation.* Low volume irrigation systems with automatic controllers shall be used. Such an irrigation system includes, but is not limited to, low volume sprinkler heads, drip emitters, and bubbler emitters. A minimum of PVC schedule 40 or equivalent shall be used for main lines and under driveway areas, and a minimum of PVC schedule 200 or equivalent shall be used for lateral lines.

(2) *Compatibility Standards.*

~~(a) *Neighborhood Compatibility.* The processes set forth in the Administrative Guidelines in Section 14.31.170(A), Identifying Impacts on Compatibility, shall be followed. All issues concerning the compatibility of the project with adjacent property and the neighborhood generally shall be resolved or mitigated.~~

~~(b)~~(a) *Land Use Conflicts.* Land use conflicts that may exist between the proposed performance development and surrounding land uses shall be examined as provided in Section 14.31.140~~170(B), Guidelines Pertaining to Land Use Conflicts~~.

~~(c)~~(b) *Curb appeal.* 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 PD. 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 such waiver does not negatively impact the continuity of the existing street scape.

~~(d)~~(c) *Height.* The maximum height of buildings within the performance development shall be the same as that permitted in the underlying zone with which the PD Zone is combined. Height requirements of the adjacent zone (if more restrictive) shall apply on the periphery of the project.

~~(e) *Building Materials.* The type of exterior building material and ratio of surface coverage for the proposed facade for other than one-family dwelling units shall be similar in material~~

~~and ratio of coverage to fifty-one percent (51%) of the existing residential structures adjacent to the development. (e.g. The majority of the existing buildings have the lower one-third (1/3) of the facade in brick on the front and the rest is siding, the new development shall have as a minimum one-third (1/3) of the front in brick and the rest in siding.) This provision shall not limit the use of brick in place of other material.~~

~~(f) *Size of Dwellings and Dwelling Structures.* One and two-family dwellings in the PD zone shall meet the minimum floor area requirements of the respective underlying zone, as listed in Section 14.34.310, Provo City Code. In Very Low and Low Density neighborhoods, as designated by the Provo City General Plan, no more than four (4) dwelling units shall be combined in a single multiple family or apartment dwelling structure.~~

~~(g)~~(d) *Garages.* In R1 and R2 zones, required off-street parking (excluding visitor and RV parking) shall be provided as required in the underlying zone and in enclosed garages or carports that are architecturally compatible with the main structures as set forth in Section 14.34.310, Provo City Code. Carports may only be approved in those cases where the applicant demonstrates, to the satisfaction of the Commission, that carports are used predominantly in the surrounding neighborhood, and that the proposed development would still provide a more pleasant and attractive living environment than would be obtained under the conventional residential subdivision standards. When garages are provided for parking purposes within any zone, the size of garage shall be consistent with the requirements set forth in Section 14.37.100, Provo City Code.

~~(h)~~(e) *Refuse Bins.* Refuse bins shall be stored in screened enclosures which are architecturally compatible in style and materials with the character of the development. Bins shall be located so they are not visible from outside circulation routes, and so they do not restrict vehicular movement or parking.

~~(i) *Screened Parking.* Parking lots of six (6) or more spaces shall be effectively screened from public streets and adjacent property ownerships.~~

~~(j)~~(f) *Glare Reduction.* Exterior lighting shall be designed such that the light source will be sufficiently obscured to prevent excessive glare into any residential area.

(3) *Design Theme.*

(a) *Entry Statement.* 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 trees.

(b) *Visual Relief.* Attached dwelling units shall have visual relief in facade and roof line which adds variety and rhythm to the design and avoids monotonous straight lines. Refer to Figure 14.31.080(c) at the end of this Chapter.

(c) *Unified Design.* Unifying architectural and landscaping design elements shall be carried throughout the project. Therefore, detailed landscaping plans shall be submitted, along with building elevation views and floor plans. In the case of PD subdivisions, design guidelines or covenants may be substituted for building plans and individual lot landscaping plans.

(4) *Open Space.* No less than ten percent (10%) of the total gross acreage in a PD shall be devoted to open green space as defined in Section 14.31.020, Provo City Code. Such space shall be consolidated and may not count required yards and building setbacks.

~~(a) *Minimum Open Green Space.* Minimum percentages of Open Green Space (OGS) for each zone are given in the following table, assuming no density bonus is granted:~~

~~Zone~~	~~OGS~~
~~A1.1~~	~~.80~~
~~RA~~	~~.80~~
~~R1~~	~~.60~~
~~R2~~	~~.40~~

Each phase of development shall provide its proportionate required open green space needed for that phase.

(b) *Hardscape.* 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.

(c) *Common Activity Areas.* At a minimum, open green space shall include either a playground with play equipment or pathways with benches and tables through a natural or planted landscaped area.

(i) Subdivided, one-family lots shall provide developed common activity area at a ratio of one thousand (1,000) square feet per lot.

(d) *Saving Existing Trees.* Developments shall be designed to incorporate existing large trees, clusters of trees or clusters of large shrubs. The Planning Commission, or a designated subcommittee, shall review the appropriateness of removal of portions of these types of vegetation if proposed in the development plan. The Commission may approve removal of some or all vegetation based on a determination of the benefits of the existing plant material and the efforts made to save and incorporate the existing plant material into the design of the project versus the problems the plant materials may create for the project in terms of general construction techniques, impact removal will have to the character of the area, the topography of the site, and harmful conditions the vegetation may create.

(i) As one of the purposes of a PD is to protect natural features, the Planning Commission may deny approval of a PD if it is determined there has been removal of trees or shrubs prior to submittal.

(e) *Landscaping Per Unit.* A minimum of three (3), one and one-half (1 1/2) inch caliper deciduous trees or four (4) foot tall evergreen trees, and four (4) shrubs shall be planted for each lot in a PD subdivision, as well as building foundation planting of appropriate shrubs, flowers, or ground covers. Landscaping in the park strip in the street right-of-way shall have a unified design theme in PD subdivisions. Multiple family PD's shall provide a minimum of one (1) deciduous or evergreen tree per two (2) units, and two (2) shrubs per unit. The intent is to have a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views.

(i) 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 wind breaks, screening, and accent plantings.

(f) *Water Conservation.* The majority of new plant material used for landscaping the development should be water conserving plants. The landscaping design shall locate plant

materials in similar water usage demand zones to ~~insure~~ensure proper irrigation coverage and reduce wasteful irrigation coverage and reduce wasteful watering.

(i) The use of turf grass shall be limited to areas of high foot traffic, play areas, and other appropriate areas as determined by the Planning Commission. All other areas which are normally planted with lawn, shall be planted with ground covers, shrubs, or trees.

(ii) Drip irrigation systems shall be designed and installed to irrigate all shrub and tree areas as needed.

(5) *Streets.* The type and arrangement of roadways peripheral to and abutting any development shall be in compliance with the Master Street Plan, the Official Map, and any Local Policy Street Maps for the area of the development. 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 Planning and Engineering Staff, shall determine if the street should be extended as a through street or as a cul-de-sac during the concept or preliminary approval.

(a) *Public Streets.* All dedicated public streets shall be constructed to City standards including width, as outlined in Section 15.03.~~040~~200, Provo City Code.

(b) *Private Streets.* All streets shall be constructed to City standards including width, as set forth in ~~Section 15.03.040, and~~ Section 15.03.200, Provo City Code. The standards for local residential streets are identical for public and private streets. Refer to Figure 15.03.200 in Title 15.

14.31.090

Density Bonus.

PD Developments are eligible for a density bonus based on additional amenities provided per Section 14.31.100, Provo City Code. Each amenity is assigned a standard percentage increase in

dwelling units above the underlying zone density limit. The total density bonus for a project shall not exceed forty percent (40%) above the underlying zone density limit.

~~Density in excess of the base density for the underlying zone may be considered for projects which comply with the bonus density design requirements. The amount of density bonus shall be determined by the type of Bonus Density Design Requirements incorporated in the development proposal. In no case shall the density bonus exceed the maximum density allowed for the zone in which the development occurs according to the following chart:~~

~~Zone~~	~~Base Density~~	~~Max Density~~
~~RA~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA*~~
~~R1.20~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA~~
~~R1.15~~	~~2.90 Units/NDA~~	~~4.06 Units/NDA~~
~~R1.10~~	~~4.35 Units/NDA~~	~~6.09 Units/NDA~~
~~R1.9~~	~~4.84 Units/NDA~~	~~6.77 Units/NDA~~
~~R1.8~~	~~5.44 Units/NDA~~	~~7.62 Units/NDA~~
~~R1.7~~	~~6.22 Units/NDA~~	~~8.71 Units/NDA~~
~~R1.6~~	~~7.26 Units/NDA~~	~~10.16 Units/NDA~~

~~* Net Developable Acre~~

~~14.31.100~~

~~Density Bonus Calculations.~~

~~For applicants requesting a density greater than the base density, the Planning Commission shall determine whether the applicant has complied with the necessary design components as provided in Section 14.31.110 of this Chapter and shall assign density points as applicable. The~~

~~additional units per acre allowed above the base density for the PD shall be determined by multiplying the total number of density bonus points by the density coefficient of the underlying zone. This figure is the additional number of units per acre allowed above the base density. This number when added to the base density will determine the total density per acre for the project; provided that the number shall not exceed the maximum density allowed in the zone. (Example: The project is in an R2 zone and the design is awarded 75 bonus points. 75 x .0435 = 3.26 additional units per acre. 3.26 + 10.89 (base density) = 14.15 maximum units per acre for the development.) The density coefficient for each underlying zone and the total amount of points needed for the maximum density are listed below:~~

~~Zone~~	~~Density Coefficient~~	~~Maximum Density Points~~
~~RA~~	~~.0087~~	~~100~~
~~R1.20~~	~~.0087~~	~~100~~
~~R1.15~~	~~.0116~~	~~100~~
~~R1.10~~	~~.0174~~	~~100~~
~~R1.9~~	~~.0193~~	~~100~~
~~R1.8~~	~~.0218~~	~~100~~
~~R1.7~~	~~.0249~~	~~100~~
~~R1.6~~	~~.0290~~	~~100~~
~~R2~~	~~.0435~~	~~100~~

14.31.100~~110~~

Density Bonus Amenities.~~Design Requirements.~~

(1) *Building Variety*. Any development providing four (4) or more types of housing models defined by different floor plans, exterior materials, or roof lines are eligible for a ten percent (10%) increase in density.

(2) *Affordable Housing.* Any PD which provides deed-restricted affordable housing defined by 80% AMI (Average Median Income) may be eligible for a density bonus. The percentage of density bonus given for affordable housing shall be equal to the percentage of affordable housing units provided, up to forty percent (40%) above the underlying zone base density.

~~If greater density is requested above the base density, a PD development shall comply with one (1) or more of the following bonus density design requirements depending upon the desired density increase. The Planning Commission shall review and determine if the proposed design complies with the intent of the design requirement before the points are granted. The density bonus points for each individual design component are in parentheses at the end of each requirement. In order to receive the maximum density allowed in the zone, the development shall have received bonus density points from at least one design component in each of the following categories: energy efficiency, building design, design theme, landscaping, and open green space. A design component cannot be used to obtain points in more than one category. The density bonus design requirements are as follows:~~

~~(1) *Energy Efficiency.*~~

~~(a) *Insulation.* All dwellings and main buildings shall have R-19 wall insulation and R-38 ceiling insulation. (Up to 10 points.)~~

~~(b) *Solar Design.* All dwellings are designed with an active or passive solar feature. The solar feature shall be a solar water heater, trombe wall, earth insulation of a majority of the walls, the building designed so that the main exposure faces south and has windows to allow solar access, or other features as approved by the Planning Commission. (Single feature per unit throughout the entire project, up to 20 points. Combination features per unit throughout the entire project, up to 30 points.)~~

~~(2) *Building Design.*~~

~~(a) *Materials.* All facades of each dwelling structure, exclusive of windows or doors, have a minimum coverage of eighty percent (80%) of the exterior surface in either brick or stone. (Up to 20 points.)~~

~~(b) *Attached Garage.* Required parking for each unit is provided for by an attached garage. (Up to 25 points.)~~

~~(c) *Carports.* All required parking for each unit is covered by carports. (Up to 10 points.)~~

~~(d) *Roof Materials.* All roofs of main buildings are clad with wood shake, tile, or slate shingles. (Up to 15 points.)~~

~~(3) *Design Theme.*~~

~~(a) *Installed Landscaping.* Landscaping is designed and installed along all streets of the development according to a theme which provides units and interest. (Up to 20 points.)~~

~~(b) *Theme Lighting.* Theme lighting is used throughout the development for street lighting, lighting of walkways, parking areas, entrances, and building exteriors. (Up to 15 points.)~~

~~(c) *Fencing.* Perimeter fencing is used throughout the project that matches the building design, i.e., masonry columns or piers using the same brick or stone as the buildings. (Up to 15 points.)~~

~~(d) *Special Features.* Special features such as fountains, streams, ponds, sculptures, buildings or other elements which establish a strong theme for the development and are utilized in highly visible locations in the development. (Up to 20 points.)~~

~~(4) *Parking Areas.*~~

~~(a) *Screening.* Parking lots of twenty (20) or more stalls are screened from view by means of berming or landscaping around the perimeter of the parking lot. (Up to 20 points.)~~

~~(b) *Landscaped Islands.* Parking lots of twenty (20) or more stalls or a continuous row of parking over ninety (90) feet in length has a landscaped island(s) which provides landscaping at a ratio of one (1) square foot of landscaping per thirteen (13) square feet of hard surface. (Up to 15 points.) Refer to Figure 14.31.100 at the end of this Chapter.~~

~~(c) *Shade Trees.* Areas with five (5) or more uncovered parking stalls are designed to include minimum two (2) inch caliper trees located in such a manner as to shade fifty percent (50%) of the parking area upon maturation of the trees. (Up to 15 points.)~~

~~(5) *Recreational Amenities.*~~

~~(a) *Active Recreation.* The PD includes a recreational amenity primarily for the use of the residents of the development. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other features as approved by the Planning Commission. The Planning Commission may determine the points based on the cost of the amenity, its benefit to the residents of the development, its size and the number of amenities in the development. (Between 5 to 35 points.)~~

~~(b) *Common Building Facilities.* Development of a common building which shall be used for meetings, indoor recreation, day care, or other common uses as approved by the Planning Commission. RV parking facilities may also be considered with this design feature. (Up to 20 points.)~~

~~(c) *Park Dedication.* Dedication of land for public park, public access along a stream, or public access along a planned trail. The City must be willing to accept the proposed dedication before points are awarded. (Public access up to 15 points. Public park up to 40 points.)~~

~~(d) *Construction of Trail or Park.* Construction according to City standards of trail or park which has been dedicated to the City according to item number (c) above. (Trail 15 points, public park 40 points.)~~

~~(6) *Landscaping.*~~

~~(a) *Extra Trees.* Design and planting more than the minimum number of trees, shrubs, and perennials per dwelling unit in the development. (Up to 20 points.)~~

~~(b) *Soften Fence Appearance.* Areas which are to be screened use a solid non-see-through wood or masonry fence and landscaping which acts to soften the appearance of the fence. Landscaping may be vines, shrubs, or trees. (Up to 15 points.)~~

~~(7) *Open Green Space.*~~

~~(a) *Designed Plan.* Open green space is designed (not left over space between buildings) and flows uninterrupted through the entire development linking dwellings and recreation amenities. (Up to 25 points.)~~

~~(b) *Multiple Use.* Storm water detention facilities are designed and used for multiple purposes which blend with the overall theme of the open space design i.e., shape of the area is free flowing, the grading and landscaping are carried out in such a manner that the use as a detention pond is not discernible. (Up to 20 points.)~~

~~(8) *Public Streets.* All streets within the development are dedicated public streets, or at least built to public street standards. (Up to 25 points.)~~

14.31.~~130~~110

Concept Plan Approval.

Concurrent with any request to rezone property to the Performance Development Overlay Zone, and prior to final plan approval, a concept plan which meets the requirements of Section 15.03.300, Provo City Code, shall be submitted to the Provo City Planning Commission.

14.31.~~140~~120

Final Project Plan Approval.

Prior to the construction of any building or structure in the PD zone, a final project plan shall be submitted and approved that meets the requirements of Section 15.03.310, Provo City Code. Said plan may be submitted in units or phases, provided each such phase can exist as a separate entity capable of independently meeting all of the requirements and standards of this Chapter and of the underlying zone with which the PD zone has been combined. The separate development of said phases shall not be detrimental to the performance development nor to the adjacent properties in the event that the remainder of the project is not completed.

14.31.~~150~~130

Guarantees and Covenants.

(1) Adequate guarantees shall be provided for permanent retention and maintenance of all open space areas created within a performance development. The Chief Building ~~Inspector~~Official shall not issue a ~~final inspection clearance~~Certificate of Occupancy until all required guarantees have been submitted to and approved by the Planning Commission. Said open space guarantees may include the following:

(a) The City may require the developer to furnish and record protective covenants which will guarantee the retention of the open land area, or the City may require the creation of a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.

(b) The developer shall be required to develop and provide for the maintenance of all open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City Parks Department accepts dedication and approves the annexation of the property to said park.

(c) In the case of private reservation, the open space to be reserved shall be protected against building development by conveying to the City as part of the condition of project approval, an open space easement over such open areas, restricting the area against any future building or use, except as approved on the project plan.

(d) The care and maintenance of the area within such open space reservation shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plan approval.

(e) Maintenance of open space reservations shall be managed by person, partnership, or corporate entity in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

(f) Minor changes in the location, siting, and height of buildings and structures may be authorized by ~~the Planning Commission~~staff without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this Subsection may cause any of the following:

(i) A change in the use or character of the development;

(ii) An increase in overall coverage of structures;

(iii) An increase in the intensity of use;

(iv) An increase in the problems of traffic circulation and public utilities;

(v) A reduction in approved open space;

(vi) A reduction of off-street parking and loading space;

(vii) A reduction in required pavement widths.

(g) All other changes in use, or rearrangement of lots, blocks, and building tracts, or any changes in the provision of common open spaces and changes other than listed above, must be made by the Municipal Council after report of the planning staff and recommendation by the Planning Commission.

(2) In order to insure that the performance development will be constructed to completion in an acceptable manner, the applicant (owner) shall post a performance bond in compliance with City bonding policy.

(3) The applicant (owner) of any performance development which is being developed as a condominium project under the provisions of the Condominium Ownership Act of Utah, or subsequent amendments thereto, shall, prior to the conveyance of any unit, submit to the Planning Commission a declaration of covenants, conditions, and restrictions relating to the project, which shall become part of the final development plan and shall be recorded to run with the land. Said covenants, conditions, and restrictions shall include management policies which shall set forth the quality of maintenance that will be performed and who is to be responsible for said maintenance within said condominium development. Said document shall, as a minimum, contain the following:

(a) Provisions for the type of occupancy (family or baching singles) as determined by the amount of provided parking and by the underlying zone.

(b) The establishment of a private association or corporation responsible for all maintenance, which shall levy the cost thereof as an assessment to each unit owner within the condominium development.

(c) The establishment of a management committee, with provisions setting forth the number of persons constituting the committee, the method of selection, and the powers and duties of said committee; and including the person, partnership, or corporation with property management expertise and experience who shall be designated to manage the maintenance of the common areas and facilities in an efficient and quality manner.

(d) The method of calling a meeting of the members of the corporation or association with the members thereof that will constitute a quorum authorized to transact business.

(e) The method for maintenance, repair, and replacement of common areas and facilities, and distribution of costs thereof.

(f) The method for maintenance of all private streets and private utilities and acknowledgment that such maintenance is the responsibility of the homeowners corporation or association.

(g) The manner of collection from unit owners for their share of common expenses, and the method of assessment.

(h) Provisions as to percentage of votes by unit owners which shall be necessary to determine whether to rebuild, repair, restore, or sell property in the event of damage or destruction of all part of the project.

(i) The method and procedure by which the declaration may be amended: the declaration required herein, any amendment, and any instrument affecting the property or any unit therein shall be approved by the Planning Commission and recorded with the County Recorder. Neither the declaration nor any amendment thereto shall be valid until approved and recorded. Said declaration and amendments thereto shall be maintained as part of the project plan for the performance development.

(4) In case of failure or neglect to comply with any and all of the conditions and regulations herein established, and as specifically made applicable to a performance development, the building inspector shall not issue a certificate of zoning compliance therefore. 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 or approval thereafter shall also be deemed to be a violation of this Chapter.

(5) Streets not constructed to City width standards shall be noted in a required covenant. Such streets ~~cannot~~can only be dedicated ~~unless brought up to City standards~~in compliance with Chapter 15.23, Provo City Code. The Municipal Council may vote to remove the property from the Performance Development Overlay Zone and deny the project plan, if the plan for the property is found to be out of character with the neighborhood; if, in the interest of promoting the general health, safety and welfare, the changed project plan should be denied; or if implementation of the new project plan would hinder or obstruct the attainment of policies established in the General Plan.

~~**14.31.160**~~

~~**Fees.**~~

~~Fees shall be charged to offset a portion of the costs incurred by the City in reviewing and processing project plans, pertaining to the PD (Performance Development) zone. Those fees shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

14.31.~~170~~140

Appendix.

(1) *Land Use Conflicts.* The matrix indicates the conflicts that are presumed to exist between land uses. The types of mitigation measures listed in the following Sections are the design tools that may be employed either separately or in combination to mitigate existing or potential land use conflicts. Minimum Performance Standards require that such conflicts be mitigated as a condition for approval of the development plan.

(a) Land Use Conflict Mitigation Measures

(i) *Open Space Setbacks.* By providing an open space buffer between conflicting land uses, conflicts can often be avoided. The width of the buffer required will depend on the extent of landscaping. To work effectively, the ownership, use, and maintenance of the open space buffer must be clearly defined.

(ii) *Landscaping and Topographic Changes.* As part of an open space buffer or as a treatment of land immediately adjacent to buildings, landscaping can be used to reduce conflicts.

(A) Dense plantings of evergreens can provide a visual buffer.

(B) Sensitive landscaping can soften the sharp visual contrast between two (2) abutting land uses by subduing the differences in architecture and bulk and by providing a gradual transition rather than a harsh edge between uses.

(C) Dense growth of plants can be visually appealing but also can be inhospitable to unwanted travelers. Such natural screen can discourage unwanted and unsafe pedestrian or bicycle access between land uses.

(D) Good landscaping can help other mitigation measures. It can reduce the width of open space buffer required. It can soften the visual conflict created by safety and security fences.

(E) Recontouring of the land can alter views, subdue sounds, change the sense of proximity, and channel pedestrian travel.

(iii) *Orientation.* The strict spatial proximity between land uses and the apparent or functional proximity can be very different depending on the orientation of buildings and activities of the two (2) land uses.

(A) The buildings themselves can cause a buffer to be created by effectively turning their backs on each other - orienting views, access and principal activities away from the other land use. Care must be taken, however, that a hazardous and unaesthetic "no-mans's land" is not created in the process. Some appropriate use must be given to the intervening space. Alternately, the intervening space can be eliminated altogether if the two (2) buildings share a common back wall. An entire site plan can be oriented so that the activities and functions are aligned

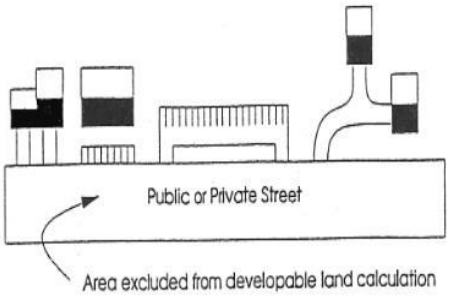
hierarchically - placing those least compatible furthest from the common boundary between land uses and those most compatible near that boundary.

(iv) *Barriers and Alleviation.* It may be appropriate and necessary to use physical barriers to prevent the undesirable attributes of one land use from affecting the people and activities in the adjacent land use. Fences, walls and berms can prevent the passage of people into areas that would be unsafe or insecure. They can also prevent spillage of materials from one (1) site to another. Noise, light, and odor pollution can be reduced at the point of origin by modifying the normal design of the operations causing the pollution. Light and noise can also be mitigated through physical barriers such as fences, walls, berms, screens and landscaping.

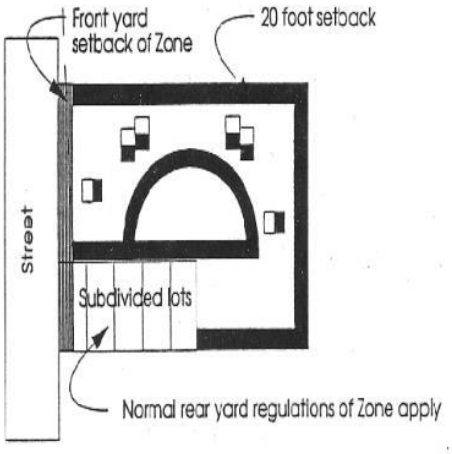
(v) *Architectural Compatibility.* In addition to the architectural considerations involved in mitigation through orientation, the materials, colors, scale, and prominence of buildings in adjacent land uses can be coordinated so there is a gradual transition from one (1) land use to another rather than a sharp and displeasing contrast. Purely aesthetic details that are "tacked" onto a building to cover up land use conflicts, however, will cause more harm than good. The architectural compatibility should rise from a total consideration of the function of each land use and the function of the space between them.

(vi) *Circulation.* Streets and parking areas can often serve to reduce certain types of land use conflicts.

Figure 14.31.070. Density Determination.

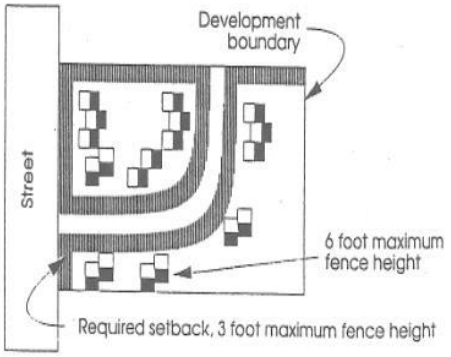


~~**Figure 14.31.080(a). Setbacks.**~~



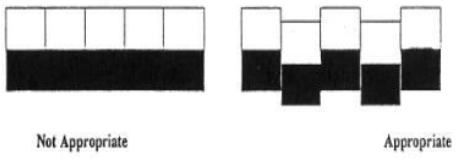
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645 **Figure 14.31.080(b). Fence Height.**



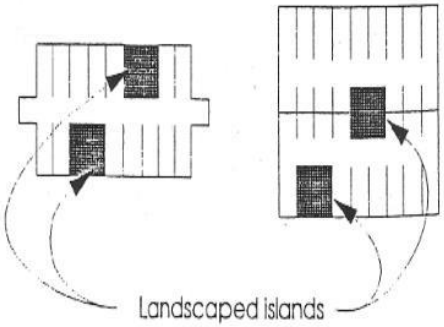
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647 **Figure 14.31.080(c). Visual Relief.**



648

649 ~~**Figure 14.31.100. Landscaped Islands.**~~


Landscaped islands

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: August 23, 2023

***ITEM #1** Development Services requests amendments to the Conventional and Open Space Subdivision Requirements (Chapter 15.04) and the PD Overlay (Chapter 14.31). Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230098

Applicant: Development Services

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider the information presented. *The next available meeting date is September 13, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested amendments. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: Staff have recently reviewed the "Open Space Subdivisions" and PD Overlay regulations in review of recent proposals to the City and found that the current regulations are somewhat convoluted, difficult to apply, and may lead to undesired outcomes.

Neighborhood Issues: This is a citywide application, but no comments or issues have been reported to staff or posted on Open City Hall at the time of this report.

Summary of Key Issues:

- Current regulations in Chapters 14.31 and 15.04 are problematic.
- Staff have gone through a process to review areas where these codes can be made clearer and improved to produce good development.

Staff Recommendation: Staff recommends that the Planning Commission recommend approval of the proposed amendments to the City Council.

OVERVIEW

The Planning Division of Development Services is bringing forward some proposed amendments to the Provo City Code regarding “Open Space” subdivisions and “Performance Development” subdivisions, in Chapters 14.31 and 15.04.

One of the purposes of these proposals is to remove the “open space” subdivision option and move the beneficial regulations of that section into the “performance development” standards. Staff found that having both the open space and performance development option in the code was redundant and confusing.

Another reason for the requested changes is to make the performance development chapter clearer for the public and staff to use and review. Removing dated and confusing standards and calculations from Chapter 14.31 is necessary to produce a better product for the development community to use.

Lastly, adding new standards and best practices into Chapter 14.31 allows the city to receive better applications that benefit the current and future residents of Provo. Providing possible density bonuses for a variety of buildings within a subdivision or deed-restricted pricing on homes will hopefully incentivize builders to create developments that meet goals within the General Plan.

Staff have written these proposals and had them reviewed by other City Departments prior to placing them on the Planning Commission agenda. This report will summarize and analyze the proposed changes, section by section below.

STAFF ANALYSIS

15.04 Amendments

Again, the main purpose of the amendments of this Chapter is to remove the “open space” subdivision but leave the rest of the conventional subdivision standards alone. The majority of the proposed changes, then, are to delete any references to open space subdivisions or their application. Specifically, the following changes are being proposed:

Line 4 (20-35): A “purpose and objectives” for this chapter is not needed as it is simply a regulatory chapter describing how to subdivide land in Provo.

Line 5 (36-44): This “applicability” section was only in reference to open space subdivisions and can therefore be removed.

Lines 7-9 (75-222): Removal of “Open Space”, “Density and Open Space Determination”, and “Design Standards for Open Space Subdivision Lots and Structures”. The idea of these sections, with some of the same specifics, is brought over

to Chapter 14.31, for use in PD overlays. Making this change should bring about similar developments but would be applied more easily and with the assurance of quality development.

Lines 49-74: Correction of terms and code references.

Lines 242-247: Changing “conditional uses” to “permitted uses” on conservation lands is due to the direction that cities have received from the State to minimize conditional uses in zones. Because of that change to allow these items by-right on conservation lands, staff proposed a more specific version of “recreational activities” to avoid harmful uses that do not meet the intent of conservation areas.

Lines 326-333: Again, removing references to “open space” subdivisions.

Lines 348-505: Updating terms and practices to match current policy and administration of subdivisions.

14.31 Amendments

Line 14 (361-374): This change removes the “density bonus calculations” that have not been user-friendly and problematic to implement.

Line 15 (375-466): These changes include altering the purpose of this section from design requirements to “density bonus amenities” to bring in opportunities for developers to increase density by providing building variety or affordable housing. Existing requirements in this section are either covered by a different section of code or dated regulations that did not provide ideal environments.

Line 19 (579-583): This change is simply removing redundant fee language that does not need to be in this Chapter.

Lines 47-52: The definition of “collective driveway” was acting more like a regulation, which should not be in a definition section. In addition, the term was not found in the Chapter, so it is being removed.

Lines 76-78: Parking lot is already a defined term in Section 14.06 and has design regulations in Chapter 14.37.

Lines 91-97: Subdivisions are not done with a “project plan” and keeping that language confuses them with an actual Project Plan Application. Additionally, the explanatory language of how staff applies the PD to the zone map does not need to be codified.

Line 101: Adding the Agricultural zones as an option for the PD overlay may help to get more housing while keeping agricultural uses in the city.

Line 108: Staff believes that since these PD overlay subdivisions are typically in or around single-family, detached homes that a maximum of eight connected units was not desirable; but that the connection of six is more appropriate, as seen in the LDR Zone.

Lines 113-116: This section only applied to the R5 Zone, which is no longer in Title 14.

Lines 123-136: Staff have removed all the density adjustments from this section since they are now described in Sections 14.31.090 and 14.31.100.

Lines 150-151: Planning Commission no longer reviews subdivisions.

Line 167: Added language and standard for A1 Zones since it was added above as an option for combining; and removed dated references.

Lines 169-170: Added reference for new “Critical Hillside” Chapter.

Lines 171-194: Setbacks have been largely removed from the PD since the underlying zone setbacks would typically apply (unless adjusted per Section 14.31.060) but choose to define specific standards for a garage to ensure viable parking behind the garage.

Lines 226-271: Adjustments to “Compatibility Standards” helps to remove obstacles to building more housing using the PD tool.

Lines 285-289: Open space standards have been simplified and defined to be more usable spaces in PD environments.

Lines 325-346: Minor corrections.

Lines 351-360: Redefines how density bonuses work. This should simplify the drawing and reviewing of PD plans, making it easier to use the tool.

Lines 485-578: Updated terms and language to be consistent with other city codes, policies, and staff job titles.

CONCLUSIONS

Staff have carefully crafted these amendments over several drafts since spring of 2023 and have developed language that will hopefully be clearer and more accessible to developers. Staff supports these amendments moving forward to the City Council.

ATTACHMENTS

1. Proposed 15.04 Amendments
2. Proposed 14.31 Amendments

ATTACHMENT 1 – PROPOSED 15.04 AMENDMENTS

Chapter 15.04

~~CONVENTIONAL AND OPEN SPACE~~ SUBDIVISION REQUIREMENTS

Sections:

~~15.04.010 Purpose and Objectives.~~
~~15.04.020 Applicability.~~
15.04.0~~30~~010 Conceptual Integrated Development Street Layout Plan.
~~15.04.040 Open Space.~~
~~15.04.050 Density and Open Space Determination.~~
~~15.04.060 Design Standards for Open Space Subdivision Lots and Structures.~~
15.04.0~~70~~020 Land Uses for Conservation Areas.
15.04.0~~80~~030 Conservation Easements.
15.04.0~~90~~040 Conservation Area Design Standards.
15.04.~~100~~050 Protection of Natural Habitat.
15.04.~~110~~060 Guarantees and Covenants.
15.04.~~120~~070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.
15.04.~~130~~080 Preliminary Subdivision Plan.
15.04.~~140~~090 Final Subdivision Plan.
15.04.~~150~~100 Vacating or Changing a Subdivision Plat.

~~15.04.010~~

~~Purpose and Objectives.~~

~~The purpose of this Chapter is to regulate the subdivision of land as set forth in this Title. Optional open space subdivision regulations are provided to encourage imaginative and efficient land utilization and to provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required for residential development. This is accomplished by providing greater flexibility in the location of buildings on the land, the conservation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of the City by allowing open space~~

~~residential subdivisions planned as a whole, single complex. Such open space subdivisions are intended to incorporate a development theme which includes the elements of usable open spaces, amenities, a well-planned circulation system, and attractive entrances as part of the design. Such open space subdivisions are also intended to provide a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences so that the community's population diversity may be maintained.~~

~~**15.04.020**~~

~~**Applicability.**~~

~~All subdivisions proposed in A1, RA, and R1.20 to R1.8 zones, regardless of location within the City, may apply the open space subdivision requirements of this Title unless the Planning Commission determines that the area to be developed would be better served by a conventional subdivision. Conventional and open space subdivisions shall conform with applicable requirements of this Title. The Planning Commission may require that open space subdivision regulations be applied in instances where primary and secondary conservation areas are in jeopardy and need preservation.~~

15.04.0~~30~~010

Conceptual Integrated Development Street Layout Plan.

(1) All subdivisions require the submission of a conceptual street layout plan for undeveloped or partially developed property within five hundred (500) feet of the proposed subdivision. Such plan shall be submitted with an application for preliminary ~~plan~~plat or final ~~plan~~plat approval and such approval shall be subject to ~~the Planning Commission's~~staff review of the conceptual street layout plan for compliance with this Section. If the proposed development consists of less than three (3) acres or less than ten (10) lots and a preliminary ~~plan~~plat is not required under Section 15.04.~~130~~080(1), Provo City Code, the conceptual street layout plan shall be submitted independently and/or with the application for final ~~plan~~plat approval.

(2) The conceptual street layout plan shall provide general compliance with the following sections of the Provo City Code:

(a) Section 15.03.070, Provo City Code, Developable Land.

(b) Section 15.03.200, Provo City Code, Street Standards.

(c) Section 15.03.210, Provo City Code, Block Standards.

(d) Section 15.03.220, Provo City Code, Lot Standards.

(e) Section 15.05.160, Provo City Code, Hillside Development Standards.

(3) Preliminary plans shall integrate with the conceptual street layout plan. The conceptual street layout plan is required for the purpose of demonstrating that the proposed subdivision will not cause detriment to the integrated development of the overall area.

(4) Conceptual street layout plans demonstrating compliance with this Section shall not be construed as having regulatory authority over properties included in the plan that are not the subject of application for preliminary plan or final plan approval. Future developers of these properties may propose alternative street layouts pursuant to the standards identified in this Section and all other regulations of Titles 14 and 15, Provo City Code.

(5) Notwithstanding Subsection (4) of this Section, should ~~the Planning Commission~~staff determine that a specific conceptual street layout plan is crucial to ensuring the integrated development of an area, the ~~Planning Commission, or their designee,~~staff may forward a recommendation to the Municipal Council to amend the local street plan pursuant to Section 14.03.~~040~~050, Provo City Code.

~~15.04.040~~

~~Open Space.~~

~~The location of open space in open space subdivisions shall be consistent with policies contained in the General Plan, as interpreted by the Planning Commission, and with the requirements contained in this Chapter. The size of secondary conservation areas shall be determined as set forth in Section 15.04.050. Such areas may be used to buffer primary conservation areas from developable land.~~

~~(1) Full density credit shall be allowed for secondary conservation areas that would be buildable under local, state and federal regulations but for the requirement to provide a~~

~~secondary conservation area pursuant to Section 15.04.050. Such density credit may be applied to other unconstrained parts of an open space subdivision.~~

~~(2) Yard areas within lots shall not be counted toward meeting the minimum open space requirement. The Planning Commission may consider applying all or a portion of primary conservation areas to meeting the open space requirements below provided that such primary conservation areas are enhanced and made usable for active or passive recreation. The majority of the lots within the subdivision should abut open space.~~

~~15.04.050~~

~~Density and Open Space Determination.~~

~~(1) Density in a subdivision shall be determined using the developable land of the proposed development set forth in 15.03.070. Density shall be computed using net rather than gross acreage.~~

~~(2) A lot yield drawing shall be submitted indicating the number of lots could be created on developable land by conforming to conventional subdivision requirements and using the underlying zone as the basis for calculating density. The number of conventional subdivision lots that could be created in conformance with the requirements of the underlying zone shall establish the base density for an open space subdivision. Such density may be increased subject to receiving a density bonus and approval from the Planning Commission as provided in this Section.~~

~~(3) For every one percent (1%) increase in open space, base density may be increased by one percent (1%) as long as each lot conforms to minimum lot size requirements as shown on the tables below. For every one percent (1%) decrease in open space, base density shall be decreased by one percent (1%). In the event an open space impact fee is established, such fee may be paid in lieu of decreasing density.~~

~~(4) Minimum open space and lot yield in an open space subdivision shall be determined as shown on the tables below.~~

~~(a) A1.1 zone (base density = 1 d.u./43,560 sq. ft.)~~

~~Minimum Open Space~~	~~Lot Yield~~	~~Lot Size Min.~~
~~50 percent (base)~~	~~10.0~~	~~8,000~~
~~55 percent~~	~~10.5~~	
~~60 percent~~	~~11.0~~	
~~65 percent~~	~~11.5~~	
~~70 percent~~	~~12.0~~	
~~75 percent~~	~~12.5~~	

~~(b) RA and R1.20 zones (base density = 1 d.u./21,780 sq. ft. or 1 d.u./ 20,000 sq. ft.)~~

~~Minimum Open Space~~	~~Lot Yield~~	~~Lot Size Min.~~
~~35 percent (base)~~	~~20~~	~~6,000~~
~~40 percent~~	~~21~~	
~~45 percent~~	~~22~~	
~~50 percent~~	~~23~~	

~~(c) R1.10 zone (base density = 1 d.u. / 10,000 sq. ft)~~

Minimum Open Space	Lot Yield	Lot Size Min.
25 percent (base)	43.5	5,000
30 percent	45.6	
35 percent	47.8	

(d) In the R1.8 zone: (base density = 1 d.u./ 8,000 sq. ft)

Minimum Open Space	Lot Yield	Lot Size Min.
20 percent (base)	54	5,000
25 percent	56.7	

(5) A density bonus may be allowed by the Planning Commission when one (1) of the following public benefits is provided:

(a) A density bonus for the dedication and improvement of land for public use (including active and passive recreation areas, municipal buildings, parks, trails, etc.) may be granted at the rate of a maximum of three (3) dwelling units per acre of conservation land dedicated for public use. Any proposed park shall be approved by the Parks and Recreation Board and shall comply with the Parks Department Master Plan. Dedicated conservation land shall conform to General Plan policies, particularly those sections dealing with active recreational facilities and passive trail networks, as determined by the Planning Commission.

(b) A density bonus may be granted if a fund is created to generate additional income for the sole purpose of off-setting the continuing cost of maintaining the conservation land (such as mowing meadows, weeding, paying insurance premiums and local taxes),

~~including costs associated with active or passive recreation facilities. Spending from this fund shall be restricted to expenditure of interest so that principal may be preserved. Assuming an annual average interest rate of five percent (5%), the amount designated for an endowment fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm or organization acceptable to the Planning Commission, with experience in managing conservation land and recreational facilities. The fund shall be transferred by the developer to the entity having ownership and maintenance responsibilities of the open space (such as a homeowner's association, a land trust, or the City) prior to occupancy. Not more than half of the bonus density awarded to a particular development may come from this category.~~

~~(c) A density increase is permitted where the open space subdivision proposal provides on site housing opportunities for low or moderate income families. The affordable housing shall be intermixed throughout the project and shall be proportional to the overall project or for each phase. For each affordable housing unit provided under this Subsection, one (1) additional building lot, dwelling unit or accessory dwelling unit shall be permitted up to a maximum of fifteen percent (15%) increase in dwelling units above the base density. For the purpose of this Subsection, affordable housing means units offered for sale at prices available to families earning seventy percent (70%) to one hundred twenty percent (120%) of the county median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development. If accessory housing units are provided, they shall be conform to the requirements of Title 14.~~

~~(6) A density of bonus of two and one half percent (2 1/2%) above base density may be granted to a project for each of the amenities set forth in this Subsection as determined by the Planning Commission. The total density bonus resulting from such amenities and any density bonus granted under Section 15.04.050(5) shall not exceed twenty five percent (25%) over base density.~~

~~(a) At least seventy five percent (75%) of the dwellings are designed with an active or passive solar feature. Qualified solar features include solar water heaters, trombe walls, earth insulation of a majority of building walls, building design having south facing main exposures and solar access windows. Similar solar features may be approved by the Planning Commission.~~

~~(b) Special features such as fountains, streams, ponds, sculptures, lighting, buildings or other elements that establish a strong design theme for the subdivision and are utilized in highly visible locations. Such features shall be first reviewed and approved by the Design Review Committee.~~

~~(c) An active recreational amenity primarily for the use of the residents of the subdivision. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other similar features approved by the Planning Commission. The Planning Commission shall determine the amount of the bonus based on the cost of the amenity, its benefit to the residents of the subdivision, its size, and the number of amenities in the subdivision.~~

~~(d) The provision of day care within the subdivision accessible to all residences therein.~~

~~(e) Landscaping installed for all residential lots including front yards and all open space. The minimum requirements for such landscaping shall be as follows:~~

~~(i) Each dwelling unit shall have a minimum of three (3), one and one-half (1 1/2) inch caliper, deciduous trees or four (4) foot tall evergreen trees, four (4) shrubs, and building foundation planting of appropriate shrubs, flowers, or ground-cover. All shrubs shall be a minimum size of five (5) gallons.~~

~~(ii) Landscaping in the park strip in the street right-of-way shall have a unified design theme. Berming is encouraged to separate and screen residential areas from arterial and collector streets. All landscaping installed within a park strip shall be installed in accordance with Chapter 15.20, Provo City Code.~~

~~(iii) Landscaping shall include a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views. 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 wind breaks, screening, and accent planting.~~

~~(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory living~~

~~spaces. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory living spaces, meeting the standards of Chapter 14.30, Provo City Code, may be located above or below a main dwelling unit or above a garage.~~

~~15.04.060~~

~~Design Standards for Open Space Subdivision Lots and Structures.~~

~~(1) Lots within open space subdivisions shall be exempt from the minimum development requirements of the applicable zone, but minimum lot size shall be limited as set forth in Section 15.04.050.~~

~~(2) Access to dwelling units on residential lots shall be from interior streets and not from streets bordering the subdivision. Alleys should be used wherever possible providing access to rear facing garages.~~

~~(3) Yard requirements shall be as follows:~~

~~(a) each lot shall have a front yard of not less than twenty (20) feet in depth;~~

~~(b) each lot shall have a side yard of not less than eight (8) feet. The distance between principal buildings on each lot shall be a minimum of sixteen (16) feet;~~

~~(c) on corner lots, the side yard contiguous to the street shall be not less than sixteen (16) feet; and~~

~~(d) each lot shall have a rear yard of not less than twenty (20) feet.~~

~~(4) In order to reduce potential conflicts between new residents and adjoining agricultural or recreational practices and activities, the width of the conservation open space adjacent to residential lots shall be maximized.~~

~~(5) Detached housing shall vary in design and materials as follows:~~

~~(a) Any development of fifty (50) or more one-family or two family detached dwelling units shall have at least four (4) different types of housing models. Any development of fewer than fifty (50) one-family dwelling units shall have at least three (3) different types of~~

~~housing models. The developer shall include, in the application for approval of the preliminary subdivision development plan, documentation showing how the development will comply with the foregoing requirement.~~

~~(b) Each dwelling unit model type shall have at least three (3) characteristics which clearly and obviously distinguish it from other model types, including different floor plans, exterior materials, roof lines, garage placement, placement of the footprint on the lot, and/or building face.~~

~~(c) The requirements of subparagraphs (a) and (b) above shall not apply to an open space subdivision containing ten (10) or fewer dwelling units.~~

15.04.~~070~~020

Land Uses for Conservation Areas.

(1) If development must be located on open fields or pastures because of greater constraints in all other parts of a site, dwellings should be sited on the least prime agricultural soils, or soils rated lowest in productivity.

(a) Open space may be left in a natural state (for example, woodland, fallow field, managed meadow).

(b) Agricultural and horticultural uses, including raising crops or livestock as permitted in the underlying zone, shall be permitted on conservation land, with the exception of raising of mink, hogs and other animals likely to produce highly offensive odors, in large numbers.

(c) Animal rights shall not be permitted on any lots smaller than the minimum lot size required in the underlying zone.

(d) Neighborhood open space uses such as picnic areas, community gardens, trails and similar low-impact passive recreational uses shall be permitted uses on conservation lands. Motorized off-road vehicle areas, rifle ranges and other uses which may have a direct impact on the adjoining residential properties shall be prohibited on conservation lands.

(e) Public access to conservation areas shall be provided at a width of at least twenty (20) feet unless otherwise approved by the Planning Commission. Such access ways may be designed at a width of ten (10) feet if intended solely for bicycle or pedestrian use.

(2) ~~Conditional~~Permitted uses on conservation lands shall be limited to:

(a) equestrian facilities;

(b) wholesale nurseries and associated buildings;

(c) golf courses;

(d) utility facilities; and

(e) ~~Other~~ outdoor recreational facilities ~~as determined by the Planning Commission.~~

15.04.~~080~~030

Conservation Easements.

(1) To protect primary and secondary conservation areas from future development, conservation easements may be established as provided in the Utah Land Conservation Easement Act. In the event of a conflict between such Act and this Title, the provisions of the Act shall apply.

(2) A conservation easement is an interest in land and runs with the land encumbered by the easement and is valid whether it is appurtenant or in gross. A conservation easement shall be enforceable by the holder of the easement and its successors and assigns against the grantor and its successors, heirs and assigns.

(3) Any property owner may grant a conservation easement to a charitable organization which qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code or to a governmental entity by purchase, gift, devise, grant, lease or bequest in the same manner and with the same effect as any other conveyance of an interest in real property. A conservation easement shall be in writing and shall be recorded in the Office of the Utah County Recorder. The instrument that creates a conservation easement shall:

(a) identify and describe the land subject to the conservation easement by legal description;

(b) specify the purpose for which the easement is created, and

(c) include a termination date or a statement that the easement continues in perpetuity.

(4) Any qualified organization or entity that receives a conservation easement shall disclose to the easement's grantor, at least three (3) days prior to the granting of the easement, the types of conservation easements available, the legal effect of each easement and that the grantor should contact an attorney concerning any possible legal and tax implications of granting a conservation easement.

(5) A conservation easement may be terminated, in whole or in part, by release, abandonment, merger, non-renewal, conditions set forth in the instrument creating the conservation easement, or in any other lawful manner in which easements may be terminated if approved by the Municipal Council after receiving a recommendation from the Planning Commission.

(6) A conservation easement may be enforced or protected by injunctive relief granted by a court in a proceeding initiated by the grantor or holder of the easement. In addition to injunctive relief, the holder of a conservation easement is entitled to recover monetary damages. The holder of a conservation easement may enter the real property subject to the easement at reasonable times and in a reasonable manner to ensure compliance.

(7) No conservation easement, or right-of-way or access to a conservation easement may be obtained through the use of eminent domain.

15.04.~~090~~040

Conservation Area Design Standards.

(1) Fragmentation of conservation areas shall be minimized so that they are not divided in smaller isolated parcels. Parcels less than one hundred (100) feet wide should be avoided, unless necessary to connect other significant areas, such as streams or trails. Prime farm land should be considered for conservation wherever possible in order to continue to promote the farming activity.

(2) Conservation areas shall be designed as part of larger continuous and integrated open space systems.

(3) Conservation areas shall be designed to provide buffers and to protect scenic views as seen from roadways and from public parks.

(4) A portion of conservation areas may be commonly used by subdivision residents for agricultural or horticultural purposes.

(5) No portion of any building lot may be used for meeting minimum amount of required conservation land area; however, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum amount of required conservation land.

(6) All conservation areas that are not wooded, farmed or maintained as conservation meadows shall be maintained or/and landscaped as determined by the Planning Commission. The use of berming is encouraged to buffer residential areas from arterial and collector streets and incompatible land uses.

(7) A maintenance plan shall be prepared for common open space areas. Such plan shall be submitted with an open space subdivision application and shall, at a minimum, address the following:

(a) vegetation management;

(b) watershed management;

(c) debris and litter removal;

(d) fire access and suppression;

(e) maintenance of public access and/or maintenance of limitations to public access;

(f) horticultural and agricultural management; and

(g) other factors deemed necessary by the Planning Commission (such as funding, staffing, insurance and remedies in the case of default).

15.04.~~100~~050

Protection of Natural Habitat.

Conservation purposes include the protection of a fish, wildlife or plant habitat. This would include the preservation of a habitat or environment that to some extent has been altered by human activity if fish, wildlife, or plants exist there in a relatively natural state as determined by the Utah Division of Wildlife Resources.

15.04.~~110~~060

Guarantees and Covenants.

(1) Adequate guarantees shall be provided to protect all primary and secondary conservation areas from future development. The Chief Building Official shall not issue a Certificate of Occupancy for any structures in such subdivisions until all required guarantees have been submitted to and approved by the Planning Commission. ~~The developer of an open space subdivision may elect any of the following to preserve conservation areas:~~

~~(a) Furnish and record protective covenants which will guarantee the retention of the open land area.~~

~~(b) Create a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.~~

~~(c) Establish a conservation easement restricting the area against any future building or use, except as approved as part of the open space subdivision.~~

(2) The developer shall be required to develop and provide for the maintenance of all common open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City accepts dedication and approves the annexation of the property to said park.

(a) The care and maintenance of such open space shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plat approval.

(b) Maintenance of open space reservations shall be managed by persons, partnerships, or corporate entities in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

15.04.~~120~~070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.

Notwithstanding the provisions of Section 15.01.020, Provo City Code, the following steps or procedures shall be followed in order to obtain approval of a subdivision:

(1) *Step 1.* Any person, partnership, firm, or corporation wishing to construct a subdivision with three (3) acres or more or ten (10) lots or more, ~~shall~~may first participate in a preapplication conference with the ~~Plan Coordinating~~Coordinator Review Committee.

(2) *Step 2.* If the proposed development is located within the high water table area as defined in Section 15.03.010, Provo City Code or is regulated by Chapter 15.05 (Sensitive Lands), Provo City Code, compliance with the same shall be presented at the time of application for a preliminary or final subdivision.

(3) *Step 3.* A recent policy of title insurance or a preliminary title report showing that the person(s) listed as the owner(s) in the owner's dedication certificate on a plat or development have sufficient control over the premises to effectually dedicate streets within the development where required and to follow through with all other requirements of the City Code. The developer shall provide a tax clearance indicating that all taxes, interest, and penalties owing on the subject property have been paid.

(4) *Step 4.* The developer has a preliminary plat prepared by a licensed surveyor according to City standards, and shall include a vicinity plan, drawn at a readable scale, indicating the location of property to be developed and all adjoining property under the ownership of the developer to be developed as part of a future development.

(5) *Step 5.* Developer submits a PDF of the preliminary plat with a completed application, required fees, ~~engineer or surveyor's computer generated information disk~~ and all supporting documents to ~~the Planning Commission~~ city staff.

(6) *Step 6.* ~~Planning Commission or designated staff, in conjunction with the City Engineer and others as deemed appropriate,~~ City Staff reviews the preliminary plat for compliance with the Provo City Code. If corrections to said plat are necessary, or if associated drawings or studies are required, such corrections shall be resolved and approved by the City Engineer and others as deemed appropriate before the plat is recorded. In any subdivision contiguous to property owned by a public entity, such entity shall be notified of the proposed subdivision and shall be invited to review the preliminary plat.

(7) *Step 7.* City staff approves, conditionally approves or denies preliminary plat based upon findings that said plat does or does not comply with applicable provisions of the Provo City Code. Preliminary approval shall expire one (1) year from the date the preliminary approval was granted unless a final plat is submitted and approved for all or a part of the subdivision. When a final subdivision does not cover the entire area included in a preliminary subdivision plat, approval of the unplatted area shall be extended to one (1) year from the date of final approval of a final plat. After expiration of the preliminary approval, no final approval shall be granted unless the developer makes a complete re-submittal including new drawings and payment of applicable fees.

(8) *Step 8.* Developer has a final plat prepared by a licensed surveyor according to City standards and submits such plat, together with the required improvement and other drawings done by a licensed engineer, and all other supporting documents and reports, along with required fees. The developer shall provide ~~two (2)~~a permanent reproducible ~~copies~~copy on Mylar of the final proposed plat. A final subdivision application shall expire one (1) year from the date of the application unless final approval is received, or sufficient progress has been made toward final approval as determined by the Development Services Director.

(9) *Step 9.* The ~~Planning Commission or designated~~ city staff reviews the final plat, in conjunction with the City Engineer and others as deemed appropriate.

(10) *Step 10.* Developer posts a bond in the form of cash or an irrevocable letter of credit, along with a subdivision improvements agreement, guaranteeing installation of the required improvements.

(11) *Step 11.* The City Engineer, when satisfied that the plat conforms with all engineering concerns, signs and seals the plat, prior to forwarding the plat to Development Services Department. The Development Services Director~~, on behalf of the Planning Commission,~~ signs the plat after receiving a recommendation from City departments for approval or conditional approval.

(12) *Step 12.* The Mayor approves, disapproves, or conditionally approves the final plat with modifications as necessary to make the final plat conform to applicable City standards and after final approval, the plat is recorded in the office of the Utah County Recorder.

(13) *Step 13.* After the final plat is recorded building permits ~~or fast tracks~~ may be issued for individual subdivision lots.

15.04.~~130~~080

Preliminary Subdivision Plan.

(1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3) acres or greater or ten (10) lots or greater.

(2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City a plan, in an approved electronic format, showing the proposed development layout, drawn to scale, and the following information:

(i) A complete and accurate legal description;

(ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor of the development, and the owners of the land immediately adjoining the land to be subdivided;

(iii) Proposed name of the development;

(iv) The location of the development as forming a part of the larger tract or parcel where the plan submitted covers only a part of the developer's tract;

(v) A conceptual integrated development plan meeting the requirements of Section 15.04.~~030~~010, Provo City Code;

(vi) A preliminary infrastructure plan for providing necessary streets, water, sewer, storm drainage, and electrical distribution for the entire tract including the point from which said services are to be extended;

(vii) A summary indicating the total area within the development, total area and dimensions of each lot, and proposed net density of the development;

(viii) Any information noted as required in the Provo City Public Works Department Development Guidelines referenced in Section 15.03.020(3)(b)(ii), Provo City Code.

(3) Based on the size, scope or complexity of the development proposal, staff may require any other information required to ensure that the proposed project complies with applicable requirements of the Provo City Code and standards and specifications adopted by the City.

(4) A final subdivision plan, meeting the requirements of Section 15.04.~~140~~090, Provo City Code, shall be submitted within twelve (12) months of the ~~Planning Commission~~staff approval of the preliminary subdivision plan. If a final subdivision plan is not submitted within the required time period, the City may initiate proceedings to rezone the property back to the zone classification that existed on the property prior to the approval.

(5) If an applicant seeks to revise a preliminary subdivision plan, the new plan shall be subject to all new sections of the Provo City Code and other new City ordinances in effect at that time.

15.04.~~140~~090

Final Subdivision Plan.

(1) A final subdivision plan shall be prepared for all developments which require a recorded plat as determined by the City Engineer. ~~In instances where a plat is not required, a lot line adjustment application must be verified and signed by the City Engineer and Development~~

~~Services Director, or designee, and recorded with all other applicable documents required by the Utah County Recorder.~~

(2) A final subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City final drawings, in an approved electronic format. The final drawings or plans shall be reviewed, stamped and signed by a professional engineer and include the following:

(i) Development name and the general location of the development;

(ii) A north point and scale on the drawing and the date;

(iii) *Accurately drawn boundaries, showing the proper bearings and distances, properly tied to public survey monuments.* These lines should be heavier than street and lot lines to clearly define said subdivision boundaries;

(iv) The names, width, lengths, bearings, and curve data on center lines of proposed public or private streets, alleys or easements. All proposed streets shall be named or numbered in accordance and in conformity with the street naming and numbering system of the City;

(v) Boundaries, bearings and dimensions of all portions within the development, as intended to be dedicated to the use of the public;

(vi) Lines, dimensions, bearings, and numbers of all lots;

(vii) *Blocks and parks reserved for any reason within the development.* All lots and blocks shall be numbered consecutively under a definite system;

(viii) Drawings showing plan layout, profile, and detailed design for sewer systems, water systems, storm systems and electrical service lines, including street lights;

(ix) Plan, profile and typical cross-section drawings of all streets, bridges, culverts and other drainage structures;

(x) Grading and drainage plan indicating the finished grade by solid line contours superimposed on dashed line contours indicating the existing topography for the area of the final plan. The plan shall identify natural slopes which exceed thirty percent (30%) or greater slope and include quantities of borrowed or excess material;

(xi) All fences, barriers or landscaping as required;

(xii) All special improvements required as conditions of development approval;

(xiii) A final plat, meeting Provo City Standards, prepared by a professional land surveyor.

(3) Upon notice of final approval, one (1) copy of the final plat on a twenty-four (24) inch by thirty-six (36) inch mylar shall be submitted as part of the final plan approval.

(4) All final subdivision plans shall reference any related previously approved preliminary subdivision plan.

(5) The final subdivision plan shall conform to the preliminary subdivision plan, except in those instances where modifications have been required.

(6) A final subdivision plan application shall be subject to the expiration terms stated in Section 15.0, Provo City Code.

15.04.~~150~~100

Vacating or Changing a Subdivision Plat.

(1) A petition to vacate, alter or amend an entire plat, or to vacate a street, or alley in a subdivision shall conform to Utah Code.

(2) Petitions to adjust lot lines between adjacent properties may be executed upon the recordation of an appropriate deed, and the recordation of an amended plat drawn according the provisions of Section 15.04.~~140~~090, Provo City Code, if:

(a) the adjoining property owners consent to the lot line adjustment, including owners adjacent to the subject property across the street, if applicable;

(b) no new dwelling lot or housing unit results from the lot line adjustment;

(c) the lot line adjustment does not violate applicable zoning ordinances; and

(d) the lot line adjustment does not result in remnant land that did not previously exist.

Chapter 14.31

PD - PERFORMANCE DEVELOPMENT OVERLAY ZONE

Sections:

14.31.010 Purpose and Objectives.
14.31.020 Definitions.
14.31.030 Use In Combination.
14.31.040 Zones With Which the Planned Development Zone May Be Combined.
14.31.050 Permitted Uses.
14.31.060 Variations to Underlying Zone Permitted.
14.31.070 Density Determination.
14.31.080 Minimum Performance Standards.
14.31.090 Density Bonus.
~~**14.31.100 Density Bonus Calculations.**~~
14.31.~~110~~100 Density Bonus Amenities ~~Design Requirements.~~
14.31.~~130~~110 Concept Plan Approval.
14.31.~~140~~120 Final Project Plan Approval.
14.31.~~150~~130 Guarantees and Covenants.
~~**14.31.160 Fees.**~~
14.31.~~170~~140 Appendix.

14.31.010

Purpose and Objectives.

(1) The purpose of the Performance Development Overlay Zone is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to insure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of Provo City.

(2) A Performance Development (PD) is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open spaces, diversity of lot design or residential use, amenities, a well-planned circulation system, and attractive entrances as part of the design. The incorporation of one (1) or two (2) of these elements into a development does not make a PD. The combination of all these elements is necessary for the development of a PD.

14.31.020

Definitions.

For the purposes of this Chapter, certain words and phrases have the following meanings:

"Alley" means a public or private vehicular street designed to serve as secondary access to the side or rear of properties whose principal frontage is on some other street. See Chapter 15.03, Provo City Code.

"Base density" means the maximum number of residential units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied.

"Bonus density" means the maximum number of residential units per developable acre in the PD allowed when the project complies with the bonus density design requirements of this Chapter.

~~**"Collective driveway"** means a driveway, at least twelve (12) feet in width, serving not more than two (2) lots, or two (2) residential dwelling units, or twenty (20) feet in width serving not more than two (2) lots and four (4) single residential dwelling units and not exceeding one hundred twenty (120) feet in length. Except that in hillside areas (See Section 15.08.160(5)(b), Provo City Code) a collective driveway, at least twenty (20) feet in width may extend three hundred fifty (350) feet.~~

"Developable land" means land under thirty percent (30%) slopes which is capable of being improved, subject to the provisions Chapter 15.08 of the Provo City Code, with landscaping, recreational facilities, buildings, or parking. 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 land, and must be subtracted out of the total acreage before the

density calculation is made. (Access aisles in parking lots and driveways shall not be considered private streets for purposes of this Section.)

"Developed common activity area" means open green space which is designed to provide activity areas for use by all residents such as playgrounds, recreational courts, picnic pavilions, gazebos, and water features. Common developed activity areas shall be held by all residents in common ownership through a homeowners association or shall be available for use by all residents if the PD will be held in single ownership.

"Driveway" means a paved area used for ingress or egress of vehicles, and allowing access from a street to one (1) building, structure, or facility.

"Gross acreage" means the total amount of land in a PD development.

"Net acreage" means the total amount of land in a PD development excluding rights-of-way or roads.

"Open green space" means a planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership that is unoccupied and unobstructed by buildings and hard surface, such as asphalt or cement, 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.

~~**"Parking lot"** means an open area, other than a street or alley, used for the parking of more than four (4) automobiles whether for free, or for compensation. Parking spaces shall not be provided within a required front yard or side yard adjacent to the street on a corner lot.~~

"Parking lot aisle" means the traveled way by which cars enter and depart parking spaces. Aisle width standards are set forth in Section 14.37.100, Provo City Code. Parking aisles shall not be considered streets for purposes of this Chapter.

"Periphery" means a one hundred (100) foot depth around the perimeter of the project measured inward from the property line.

14.31.030

Use In Combination.

The Performance Development (PD) overlay zone may be used in combination with existing conventional zones as designated herein, and the provisions of the performance development overlay zone shall become supplementary to the provisions of the zone with which it is combined. The PD zone shall not be applied to a land area as an independent zone. Property to which the PD zone has been applied shall be developed only in conformance with an approved ~~project~~ plan. When used in combination with the designated zones, the Performance Development zone designated (PD) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. ~~When applied to land area, said combined designation shall be shown on the Zone Map of Provo City as set forth in the following example:~~

~~Example: If the Performance Development (PD) zone were being combined with the Residential zone (R1), it would be designated on the Zone Map of Provo City as "R1(PD)."~~

14.31.040

Zones With Which the Planned Development Zone May Be Combined.

The Performance Development overlay (PD) zone may be combined with the following zones: A1, RA, R1, and R2 zones.

14.31.050

Permitted Uses.

Uses permitted in the Planned Development overlay (PD) zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the PD zone has been combined, except as follows:

(1) In one and two-family zones, dwelling units may be clustered in common-wall construction with a maximum of ~~eight (8)~~six (6) consecutively attached units. Such units may have no more than two (2) walls in common, with no units above other units.

(2) Accessory uses to the PD which are located in a common main building may be permitted. Accessory uses shall include recreational facilities and structures, day care centers, personal services, and RV parking, when approved as part of the final development plan.

~~(3) When combined with an R5 zone only, the following service and commercial uses may be allowed in conjunction with an apartment development provided said uses are located on the ground floor only, meet all of the off-street parking requirements of Chapter 14.37, Provo City Code and are approved in accordance with all of the standards and procedures of this Chapter.~~

~~Use No.~~	~~Use Classification~~
~~4811~~	~~Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4821~~	~~Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4824~~	~~Gas pressure control stations~~
~~4831~~	~~Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4835~~	~~Irrigation distribution channels~~
~~4836~~	~~Water pressure control stations and pumping plants~~

Use No.	Use Classification
4841	Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)
5410	Groceries (convenience market, less than five thousand (5,000) square feet)
5814	Cafeterias, lunch counters, snack bars, etc., (non-auto oriented)
5912	Prescription pharmacy
5941-42	Books, magazines, stationery
6111	Bank branch (non-auto oriented)
6216	Self service laundry

Use No.	Use Classification
6230	Beauty and barber services
6252	Laundry and dry cleaning (pick-up station only)
6339	Stenographic services
6500	Professional Services (except 6515)
6910	Religious activities

14.31.060

Variations to Underlying Zone Permitted.

Upon combining the PD zone with an appropriate existing zone, variations from the development standards of said underlying zone may be permitted provided the variations are specifically adopted as part of the approved project plan or approved supporting documents. Variations, however, shall not include changes in the permitted uses allowed by the zone with which the PD zone has been combined, except to the extent set forth herein.

(1) *Base Density.* The maximum number of residential units allowed per developable acre in a PD which meets only the minimum development requirements of this Chapter shall be calculated using the Lot Area Per Dwelling Requirement of the underlying zone:

ZONE	LOT AREA/DWELLING
RA	1 unit per 21,780 square feet
R1.20	1 unit per 20,000 square feet
R1.15	1 unit per 15,000 square feet

~~R1.10 1 unit per 10,000 square feet~~

~~R1.9 1 unit per 9,000 square feet~~

~~R1.8 1 unit per 8,000 square feet~~

~~R1.7 1 unit per 7,000 square feet~~

~~R1.6 1 unit per 6,000 square feet~~

~~R2 2 units per 8,000 square feet~~

~~(2) Notwithstanding the foregoing provision, in no event shall the maximum number of residential units exceed the number of units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied. Such maximum number of residential units shall be reasonably determined by the Planning Commission using development criteria and ordinance requirements applicable to the zone with which the PD is proposed to be combined.~~

~~(3) In the event an approved project plan is proposed to be amended and a density increase is requested, the Planning Commission may, subject to the requirements of this Chapter, approve such density increase; provided, however, that any density increase shall not exceed by more than ten percent (10%) the density shown on the originally approved project plan.~~

14.31.070

Density Determination.

Density in a PD shall be determined by using the "developable land" of the entire proposed development. Developable land is land under thirty percent (30%) slope which is capable of being improved with landscaping, recreational facilities, buildings, or parking. Land devoted to street usage in PD subdivisions shall not be considered developable acreage and must be subtracted out of the total acreage used to determine density. Refer to Figure 14.31.070 at the end of this Chapter.

14.31.080

Minimum Performance Standards.

A performance development established under the provisions of this Chapter shall conform to the standards and requirements of this Section. Project plans shall be approved or denied on the basis of performance measured against development standards adopted in accordance with this Chapter. ~~and on the findings made by the Planning Commission as required by Section 14.31.120(2).~~

(1) *General Standards.*

(a) *Single Ownership or Control.* The area proposed for a performance development shall be in one (1) ownership or control during development to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans. Mere development agreements between individuals shall not satisfy this requirement. Individual ownership, partnerships, corporations, and other legally recognized entities are acceptable.

(b) *Scope of Plan.* A plan for the development of a performance development shall cover the entire area proposed for development. Upon approval the development shall be strictly in accordance with the plan. Areas not proposed for development shall be designated as open space and shall conform to minimum landscaping requirements of this Chapter.

(c) *Design Team.* The final development plans shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.

(d) *Minimum Area.* The minimum land area for a performance development shall be as follows:

A1 zone	5 acres
RA zone	5 acres

R1 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~
R2 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~

(e) *Hazardous Conditions.* If located in "sensitive lands," "high water table," and/or "floodplain," the project must comply with all provisions of the Sensitive Lands, Critical Hillside, and/or Floodplain sections of the Provo City Code.

(f) *Setbacks.* Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line. ~~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 development abuts a street and a minimum twenty (20) foot setback at those locations where development abuts other parcels of land outside the project. Departures from these setbacks must be justified by unique and unusual circumstances related to the site, or for reasons of improved design.~~

~~(i) Notwithstanding the above provision, if the development has subdivided one-family lots which abut other parcels of land, the specific zone regulations shall apply for rear and side yard setbacks on the subdivided lots. The required setback area shall be landscaped.~~

~~(ii) Structures shall be placed in such a way as not to impair lines of sight for pedestrian or vehicular traffic. Placement shall be in accordance with the provisions of Section 14.34.100, Provo City Code, Clear Vision Area - Corner Lots.~~

~~(iii) Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line.~~

~~(iv) A minimum ten (10) foot landscaped setback shall be maintained from all interior roadways.~~

~~(v) Minimum distance between main buildings in the development shall be fifteen (15) feet for single story buildings, twenty (20) feet for two story buildings, and twenty-five (25) feet for three or more stories. Refer to Figure 14.31.080(a) at the end of this Chapter.~~

(g) *Fence Height.* If fencing is proposed adjacent to a public or private street, the maximum fence height shall be three (3) feet for fences located in the required front yard and side yard setback facing a street as determined in the underlying zone. Fence heights located outside of these setbacks shall be limited to a maximum height of six (6) feet. 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:

(i) Not isolate surrounding neighborhoods;

(ii) Be consistent with the theme of the development; and

(iii) Be compatible with the neighborhood.

If fencing isolates property between the fence and the public street, the development shall provide means to ensure continued maintenance of this area. Refer to Figure 14.31.080(b) at the end of this Chapter.

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

(i) *Utilities.* All utilities shall be placed underground, including telephone, electrical, and television cables. Dwelling units under separate ownership shall have separate utility metering, unless otherwise approved by the Energy and Water Departments.

(j) *Phasing.* If the project is to be done in phases, no remnant parcels shall be created. Any land not proposed for development shall be designated as open space.

(k) *Air Quality.* The use of coal or wood burning furnaces, fireplaces or other heating devices which burn coal are prohibited unless especially equipped with devices proven to minimize air pollution.

(l) *Water Conservation.* Low volume irrigation systems with automatic controllers shall be used. Such an irrigation system includes, but is not limited to, low volume sprinkler heads, drip emitters, and bubbler emitters. A minimum of PVC schedule 40 or equivalent shall be used for main lines and under driveway areas, and a minimum of PVC schedule 200 or equivalent shall be used for lateral lines.

(2) *Compatibility Standards.*

~~(a) *Neighborhood Compatibility.* The processes set forth in the Administrative Guidelines in Section 14.31.170(A), Identifying Impacts on Compatibility, shall be followed. All issues concerning the compatibility of the project with adjacent property and the neighborhood generally shall be resolved or mitigated.~~

~~(b)~~(a) *Land Use Conflicts.* Land use conflicts that may exist between the proposed performance development and surrounding land uses shall be examined as provided in Section 14.31.140~~170(B), Guidelines Pertaining to Land Use Conflicts~~.

~~(c)~~(b) *Curb appeal.* 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 PD. 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 such waiver does not negatively impact the continuity of the existing street scape.

~~(d)~~(c) *Height.* The maximum height of buildings within the performance development shall be the same as that permitted in the underlying zone with which the PD Zone is combined. Height requirements of the adjacent zone (if more restrictive) shall apply on the periphery of the project.

~~(e) *Building Materials.* The type of exterior building material and ratio of surface coverage for the proposed facade for other than one-family dwelling units shall be similar in material~~

~~and ratio of coverage to fifty-one percent (51%) of the existing residential structures adjacent to the development. (e.g. The majority of the existing buildings have the lower one-third (1/3) of the facade in brick on the front and the rest is siding, the new development shall have as a minimum one-third (1/3) of the front in brick and the rest in siding.) This provision shall not limit the use of brick in place of other material.~~

~~(f) *Size of Dwellings and Dwelling Structures.* One and two-family dwellings in the PD zone shall meet the minimum floor area requirements of the respective underlying zone, as listed in Section 14.34.310, Provo City Code. In Very Low and Low Density neighborhoods, as designated by the Provo City General Plan, no more than four (4) dwelling units shall be combined in a single multiple family or apartment dwelling structure.~~

~~(g)~~(d) *Garages.* In R1 and R2 zones, required off-street parking (excluding visitor and RV parking) shall be provided as required in the underlying zone and in enclosed garages or carports that are architecturally compatible with the main structures as set forth in Section 14.34.310, Provo City Code. Carports may only be approved in those cases where the applicant demonstrates, to the satisfaction of the Commission, that carports are used predominantly in the surrounding neighborhood, and that the proposed development would still provide a more pleasant and attractive living environment than would be obtained under the conventional residential subdivision standards. When garages are provided for parking purposes within any zone, the size of garage shall be consistent with the requirements set forth in Section 14.37.100, Provo City Code.

~~(h)~~(e) *Refuse Bins.* Refuse bins shall be stored in screened enclosures which are architecturally compatible in style and materials with the character of the development. Bins shall be located so they are not visible from outside circulation routes, and so they do not restrict vehicular movement or parking.

~~(i) *Screened Parking.* Parking lots of six (6) or more spaces shall be effectively screened from public streets and adjacent property ownerships.~~

~~(j)~~(f) *Glare Reduction.* Exterior lighting shall be designed such that the light source will be sufficiently obscured to prevent excessive glare into any residential area.

(3) *Design Theme.*

(a) *Entry Statement.* 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 trees.

(b) *Visual Relief.* Attached dwelling units shall have visual relief in facade and roof line which adds variety and rhythm to the design and avoids monotonous straight lines. Refer to Figure 14.31.080(c) at the end of this Chapter.

(c) *Unified Design.* Unifying architectural and landscaping design elements shall be carried throughout the project. Therefore, detailed landscaping plans shall be submitted, along with building elevation views and floor plans. In the case of PD subdivisions, design guidelines or covenants may be substituted for building plans and individual lot landscaping plans.

(4) *Open Space.* No less than ten percent (10%) of the total gross acreage in a PD shall be devoted to open green space as defined in Section 14.31.020, Provo City Code. Such space shall be consolidated and may not count required yards and building setbacks.

~~(a) *Minimum Open Green Space.* Minimum percentages of Open Green Space (OGS) for each zone are given in the following table, assuming no density bonus is granted:~~

~~Zone~~	~~OGS~~
~~A1.1~~	~~.80~~
~~RA~~	~~.80~~
~~R1~~	~~.60~~
~~R2~~	~~.40~~

Each phase of development shall provide its proportionate required open green space needed for that phase.

(b) *Hardscape.* 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.

(c) *Common Activity Areas.* At a minimum, open green space shall include either a playground with play equipment or pathways with benches and tables through a natural or planted landscaped area.

(i) Subdivided, one-family lots shall provide developed common activity area at a ratio of one thousand (1,000) square feet per lot.

(d) *Saving Existing Trees.* Developments shall be designed to incorporate existing large trees, clusters of trees or clusters of large shrubs. The Planning Commission, or a designated subcommittee, shall review the appropriateness of removal of portions of these types of vegetation if proposed in the development plan. The Commission may approve removal of some or all vegetation based on a determination of the benefits of the existing plant material and the efforts made to save and incorporate the existing plant material into the design of the project versus the problems the plant materials may create for the project in terms of general construction techniques, impact removal will have to the character of the area, the topography of the site, and harmful conditions the vegetation may create.

(i) As one of the purposes of a PD is to protect natural features, the Planning Commission may deny approval of a PD if it is determined there has been removal of trees or shrubs prior to submittal.

(e) *Landscaping Per Unit.* A minimum of three (3), one and one-half (1 1/2) inch caliper deciduous trees or four (4) foot tall evergreen trees, and four (4) shrubs shall be planted for each lot in a PD subdivision, as well as building foundation planting of appropriate shrubs, flowers, or ground covers. Landscaping in the park strip in the street right-of-way shall have a unified design theme in PD subdivisions. Multiple family PD's shall provide a minimum of one (1) deciduous or evergreen tree per two (2) units, and two (2) shrubs per unit. The intent is to have a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views.

(i) 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 wind breaks, screening, and accent plantings.

(f) *Water Conservation.* The majority of new plant material used for landscaping the development should be water conserving plants. The landscaping design shall locate plant

materials in similar water usage demand zones to ~~insure~~ensure proper irrigation coverage and reduce wasteful irrigation coverage and reduce wasteful watering.

(i) The use of turf grass shall be limited to areas of high foot traffic, play areas, and other appropriate areas as determined by the Planning Commission. All other areas which are normally planted with lawn, shall be planted with ground covers, shrubs, or trees.

(ii) Drip irrigation systems shall be designed and installed to irrigate all shrub and tree areas as needed.

(5) *Streets.* The type and arrangement of roadways peripheral to and abutting any development shall be in compliance with the Master Street Plan, the Official Map, and any Local Policy Street Maps for the area of the development. 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 Planning and Engineering Staff, shall determine if the street should be extended as a through street or as a cul-de-sac during the concept or preliminary approval.

(a) *Public Streets.* All dedicated public streets shall be constructed to City standards including width, as outlined in Section 15.03.~~040~~200, Provo City Code.

(b) *Private Streets.* All streets shall be constructed to City standards including width, as set forth in ~~Section 15.03.040, and~~ Section 15.03.200, Provo City Code. The standards for local residential streets are identical for public and private streets. Refer to Figure 15.03.200 in Title 15.

14.31.090

Density Bonus.

PD Developments are eligible for a density bonus based on additional amenities provided per Section 14.31.100, Provo City Code. Each amenity is assigned a standard percentage increase in

dwelling units above the underlying zone density limit. The total density bonus for a project shall not exceed forty percent (40%) above the underlying zone density limit.

~~Density in excess of the base density for the underlying zone may be considered for projects which comply with the bonus density design requirements. The amount of density bonus shall be determined by the type of Bonus Density Design Requirements incorporated in the development proposal. In no case shall the density bonus exceed the maximum density allowed for the zone in which the development occurs according to the following chart:~~

~~Zone~~	~~Base Density~~	~~Max Density~~
~~RA~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA*~~
~~R1.20~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA~~
~~R1.15~~	~~2.90 Units/NDA~~	~~4.06 Units/NDA~~
~~R1.10~~	~~4.35 Units/NDA~~	~~6.09 Units/NDA~~
~~R1.9~~	~~4.84 Units/NDA~~	~~6.77 Units/NDA~~
~~R1.8~~	~~5.44 Units/NDA~~	~~7.62 Units/NDA~~
~~R1.7~~	~~6.22 Units/NDA~~	~~8.71 Units/NDA~~
~~R1.6~~	~~7.26 Units/NDA~~	~~10.16 Units/NDA~~

~~* Net Developable Acre~~

~~14.31.100~~

~~Density Bonus Calculations.~~

~~For applicants requesting a density greater than the base density, the Planning Commission shall determine whether the applicant has complied with the necessary design components as provided in Section 14.31.110 of this Chapter and shall assign density points as applicable. The~~

~~additional units per acre allowed above the base density for the PD shall be determined by multiplying the total number of density bonus points by the density coefficient of the underlying zone. This figure is the additional number of units per acre allowed above the base density. This number when added to the base density will determine the total density per acre for the project; provided that the number shall not exceed the maximum density allowed in the zone. (Example: The project is in an R2 zone and the design is awarded 75 bonus points. 75 x .0435 = 3.26 additional units per acre. 3.26 + 10.89 (base density) = 14.15 maximum units per acre for the development.) The density coefficient for each underlying zone and the total amount of points needed for the maximum density are listed below:~~

~~Zone~~	~~Density Coefficient~~	~~Maximum Density Points~~
~~RA~~	~~.0087~~	~~100~~
~~R1.20~~	~~.0087~~	~~100~~
~~R1.15~~	~~.0116~~	~~100~~
~~R1.10~~	~~.0174~~	~~100~~
~~R1.9~~	~~.0193~~	~~100~~
~~R1.8~~	~~.0218~~	~~100~~
~~R1.7~~	~~.0249~~	~~100~~
~~R1.6~~	~~.0290~~	~~100~~
~~R2~~	~~.0435~~	~~100~~

14.31.100~~110~~

Density Bonus Amenities.~~Design Requirements.~~

(1) *Building Variety*. Any development providing four (4) or more types of housing models defined by different floor plans, exterior materials, or roof lines are eligible for a ten percent (10%) increase in density.

(2) *Affordable Housing.* Any PD which provides deed-restricted affordable housing defined by 80% AMI (Average Median Income) may be eligible for a density bonus. The percentage of density bonus given for affordable housing shall be equal to the percentage of affordable housing units provided, up to forty percent (40%) above the underlying zone base density.

~~If greater density is requested above the base density, a PD development shall comply with one (1) or more of the following bonus density design requirements depending upon the desired density increase. The Planning Commission shall review and determine if the proposed design complies with the intent of the design requirement before the points are granted. The density bonus points for each individual design component are in parentheses at the end of each requirement. In order to receive the maximum density allowed in the zone, the development shall have received bonus density points from at least one design component in each of the following categories: energy efficiency, building design, design theme, landscaping, and open green space. A design component cannot be used to obtain points in more than one category. The density bonus design requirements are as follows:~~

~~(1) *Energy Efficiency.*~~

~~(a) *Insulation.* All dwellings and main buildings shall have R-19 wall insulation and R-38 ceiling insulation. (Up to 10 points.)~~

~~(b) *Solar Design.* All dwellings are designed with an active or passive solar feature. The solar feature shall be a solar water heater, trombe wall, earth insulation of a majority of the walls, the building designed so that the main exposure faces south and has windows to allow solar access, or other features as approved by the Planning Commission. (Single feature per unit throughout the entire project, up to 20 points. Combination features per unit throughout the entire project, up to 30 points.)~~

~~(2) *Building Design.*~~

~~(a) *Materials.* All facades of each dwelling structure, exclusive of windows or doors, have a minimum coverage of eighty percent (80%) of the exterior surface in either brick or stone. (Up to 20 points.)~~

~~(b) *Attached Garage.* Required parking for each unit is provided for by an attached garage. (Up to 25 points.)~~

~~(c) *Carports.* All required parking for each unit is covered by carports. (Up to 10 points.)~~

~~(d) *Roof Materials.* All roofs of main buildings are clad with wood shake, tile, or slate shingles. (Up to 15 points.)~~

~~(3) *Design Theme.*~~

~~(a) *Installed Landscaping.* Landscaping is designed and installed along all streets of the development according to a theme which provides units and interest. (Up to 20 points.)~~

~~(b) *Theme Lighting.* Theme lighting is used throughout the development for street lighting, lighting of walkways, parking areas, entrances, and building exteriors. (Up to 15 points.)~~

~~(c) *Fencing.* Perimeter fencing is used throughout the project that matches the building design, i.e., masonry columns or piers using the same brick or stone as the buildings. (Up to 15 points.)~~

~~(d) *Special Features.* Special features such as fountains, streams, ponds, sculptures, buildings or other elements which establish a strong theme for the development and are utilized in highly visible locations in the development. (Up to 20 points.)~~

~~(4) *Parking Areas.*~~

~~(a) *Screening.* Parking lots of twenty (20) or more stalls are screened from view by means of berming or landscaping around the perimeter of the parking lot. (Up to 20 points.)~~

~~(b) *Landscaped Islands.* Parking lots of twenty (20) or more stalls or a continuous row of parking over ninety (90) feet in length has a landscaped island(s) which provides landscaping at a ratio of one (1) square foot of landscaping per thirteen (13) square feet of hard surface. (Up to 15 points.) Refer to Figure 14.31.100 at the end of this Chapter.~~

~~(c) *Shade Trees.* Areas with five (5) or more uncovered parking stalls are designed to include minimum two (2) inch caliper trees located in such a manner as to shade fifty percent (50%) of the parking area upon maturation of the trees. (Up to 15 points.)~~

~~(5) *Recreational Amenities.*~~

~~(a) *Active Recreation.* The PD includes a recreational amenity primarily for the use of the residents of the development. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other features as approved by the Planning Commission. The Planning Commission may determine the points based on the cost of the amenity, its benefit to the residents of the development, its size and the number of amenities in the development. (Between 5 to 35 points.)~~

~~(b) *Common Building Facilities.* Development of a common building which shall be used for meetings, indoor recreation, day care, or other common uses as approved by the Planning Commission. RV parking facilities may also be considered with this design feature. (Up to 20 points.)~~

~~(c) *Park Dedication.* Dedication of land for public park, public access along a stream, or public access along a planned trail. The City must be willing to accept the proposed dedication before points are awarded. (Public access up to 15 points. Public park up to 40 points.)~~

~~(d) *Construction of Trail or Park.* Construction according to City standards of trail or park which has been dedicated to the City according to item number (c) above. (Trail 15 points, public park 40 points.)~~

~~(6) *Landscaping.*~~

~~(a) *Extra Trees.* Design and planting more than the minimum number of trees, shrubs, and perennials per dwelling unit in the development. (Up to 20 points.)~~

~~(b) *Soften Fence Appearance.* Areas which are to be screened use a solid non-see-through wood or masonry fence and landscaping which acts to soften the appearance of the fence. Landscaping may be vines, shrubs, or trees. (Up to 15 points.)~~

~~(7) *Open Green Space.*~~

~~(a) *Designed Plan.* Open green space is designed (not left over space between buildings) and flows uninterrupted through the entire development linking dwellings and recreation amenities. (Up to 25 points.)~~

~~(b) *Multiple Use.* Storm water detention facilities are designed and used for multiple purposes which blend with the overall theme of the open space design i.e., shape of the area is free flowing, the grading and landscaping are carried out in such a manner that the use as a detention pond is not discernible. (Up to 20 points.)~~

~~(8) *Public Streets.* All streets within the development are dedicated public streets, or at least built to public street standards. (Up to 25 points.)~~

14.31.~~130~~110

Concept Plan Approval.

Concurrent with any request to rezone property to the Performance Development Overlay Zone, and prior to final plan approval, a concept plan which meets the requirements of Section 15.03.300, Provo City Code, shall be submitted to the Provo City Planning Commission.

14.31.~~140~~120

Final Project Plan Approval.

Prior to the construction of any building or structure in the PD zone, a final project plan shall be submitted and approved that meets the requirements of Section 15.03.310, Provo City Code. Said plan may be submitted in units or phases, provided each such phase can exist as a separate entity capable of independently meeting all of the requirements and standards of this Chapter and of the underlying zone with which the PD zone has been combined. The separate development of said phases shall not be detrimental to the performance development nor to the adjacent properties in the event that the remainder of the project is not completed.

14.31.~~150~~130

Guarantees and Covenants.

(1) Adequate guarantees shall be provided for permanent retention and maintenance of all open space areas created within a performance development. The Chief Building ~~Inspector~~Official shall not issue a ~~final inspection clearance~~Certificate of Occupancy until all required guarantees have been submitted to and approved by the Planning Commission. Said open space guarantees may include the following:

(a) The City may require the developer to furnish and record protective covenants which will guarantee the retention of the open land area, or the City may require the creation of a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.

(b) The developer shall be required to develop and provide for the maintenance of all open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City Parks Department accepts dedication and approves the annexation of the property to said park.

(c) In the case of private reservation, the open space to be reserved shall be protected against building development by conveying to the City as part of the condition of project approval, an open space easement over such open areas, restricting the area against any future building or use, except as approved on the project plan.

(d) The care and maintenance of the area within such open space reservation shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plan approval.

(e) Maintenance of open space reservations shall be managed by person, partnership, or corporate entity in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

(f) Minor changes in the location, siting, and height of buildings and structures may be authorized by ~~the Planning Commission~~staff without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this Subsection may cause any of the following:

(i) A change in the use or character of the development;

(ii) An increase in overall coverage of structures;

(iii) An increase in the intensity of use;

(iv) An increase in the problems of traffic circulation and public utilities;

(v) A reduction in approved open space;

(vi) A reduction of off-street parking and loading space;

(vii) A reduction in required pavement widths.

(g) All other changes in use, or rearrangement of lots, blocks, and building tracts, or any changes in the provision of common open spaces and changes other than listed above, must be made by the Municipal Council after report of the planning staff and recommendation by the Planning Commission.

(2) In order to insure that the performance development will be constructed to completion in an acceptable manner, the applicant (owner) shall post a performance bond in compliance with City bonding policy.

(3) The applicant (owner) of any performance development which is being developed as a condominium project under the provisions of the Condominium Ownership Act of Utah, or subsequent amendments thereto, shall, prior to the conveyance of any unit, submit to the Planning Commission a declaration of covenants, conditions, and restrictions relating to the project, which shall become part of the final development plan and shall be recorded to run with the land. Said covenants, conditions, and restrictions shall include management policies which shall set forth the quality of maintenance that will be performed and who is to be responsible for said maintenance within said condominium development. Said document shall, as a minimum, contain the following:

(a) Provisions for the type of occupancy (family or baching singles) as determined by the amount of provided parking and by the underlying zone.

(b) The establishment of a private association or corporation responsible for all maintenance, which shall levy the cost thereof as an assessment to each unit owner within the condominium development.

(c) The establishment of a management committee, with provisions setting forth the number of persons constituting the committee, the method of selection, and the powers and duties of said committee; and including the person, partnership, or corporation with property management expertise and experience who shall be designated to manage the maintenance of the common areas and facilities in an efficient and quality manner.

(d) The method of calling a meeting of the members of the corporation or association with the members thereof that will constitute a quorum authorized to transact business.

(e) The method for maintenance, repair, and replacement of common areas and facilities, and distribution of costs thereof.

(f) The method for maintenance of all private streets and private utilities and acknowledgment that such maintenance is the responsibility of the homeowners corporation or association.

(g) The manner of collection from unit owners for their share of common expenses, and the method of assessment.

(h) Provisions as to percentage of votes by unit owners which shall be necessary to determine whether to rebuild, repair, restore, or sell property in the event of damage or destruction of all part of the project.

(i) The method and procedure by which the declaration may be amended: the declaration required herein, any amendment, and any instrument affecting the property or any unit therein shall be approved by the Planning Commission and recorded with the County Recorder. Neither the declaration nor any amendment thereto shall be valid until approved and recorded. Said declaration and amendments thereto shall be maintained as part of the project plan for the performance development.

(4) In case of failure or neglect to comply with any and all of the conditions and regulations herein established, and as specifically made applicable to a performance development, the building inspector shall not issue a certificate of zoning compliance therefore. 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 or approval thereafter shall also be deemed to be a violation of this Chapter.

(5) Streets not constructed to City width standards shall be noted in a required covenant. Such streets ~~cannot~~can only be dedicated ~~unless brought up to City standards~~in compliance with Chapter 15.23, Provo City Code. The Municipal Council may vote to remove the property from the Performance Development Overlay Zone and deny the project plan, if the plan for the property is found to be out of character with the neighborhood; if, in the interest of promoting the general health, safety and welfare, the changed project plan should be denied; or if implementation of the new project plan would hinder or obstruct the attainment of policies established in the General Plan.

~~**14.31.160**~~

~~**Fees.**~~

~~Fees shall be charged to offset a portion of the costs incurred by the City in reviewing and processing project plans, pertaining to the PD (Performance Development) zone. Those fees shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

14.31.~~170~~140

Appendix.

(1) *Land Use Conflicts.* The matrix indicates the conflicts that are presumed to exist between land uses. The types of mitigation measures listed in the following Sections are the design tools that may be employed either separately or in combination to mitigate existing or potential land use conflicts. Minimum Performance Standards require that such conflicts be mitigated as a condition for approval of the development plan.

(a) Land Use Conflict Mitigation Measures

(i) *Open Space Setbacks.* By providing an open space buffer between conflicting land uses, conflicts can often be avoided. The width of the buffer required will depend on the extent of landscaping. To work effectively, the ownership, use, and maintenance of the open space buffer must be clearly defined.

(ii) *Landscaping and Topographic Changes.* As part of an open space buffer or as a treatment of land immediately adjacent to buildings, landscaping can be used to reduce conflicts.

(A) Dense plantings of evergreens can provide a visual buffer.

(B) Sensitive landscaping can soften the sharp visual contrast between two (2) abutting land uses by subduing the differences in architecture and bulk and by providing a gradual transition rather than a harsh edge between uses.

(C) Dense growth of plants can be visually appealing but also can be inhospitable to unwanted travelers. Such natural screen can discourage unwanted and unsafe pedestrian or bicycle access between land uses.

(D) Good landscaping can help other mitigation measures. It can reduce the width of open space buffer required. It can soften the visual conflict created by safety and security fences.

(E) Recontouring of the land can alter views, subdue sounds, change the sense of proximity, and channel pedestrian travel.

(iii) *Orientation.* The strict spatial proximity between land uses and the apparent or functional proximity can be very different depending on the orientation of buildings and activities of the two (2) land uses.

(A) The buildings themselves can cause a buffer to be created by effectively turning their backs on each other - orienting views, access and principal activities away from the other land use. Care must be taken, however, that a hazardous and unaesthetic "no-mans's land" is not created in the process. Some appropriate use must be given to the intervening space. Alternately, the intervening space can be eliminated altogether if the two (2) buildings share a common back wall. An entire site plan can be oriented so that the activities and functions are aligned

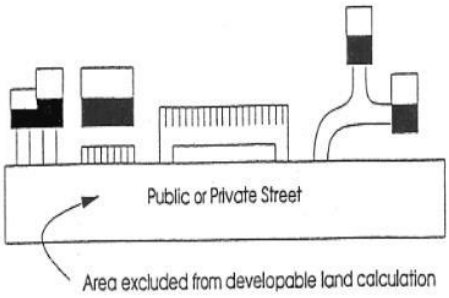
hierarchically - placing those least compatible furthest from the common boundary between land uses and those most compatible near that boundary.

(iv) *Barriers and Alleviation.* It may be appropriate and necessary to use physical barriers to prevent the undesirable attributes of one land use from affecting the people and activities in the adjacent land use. Fences, walls and berms can prevent the passage of people into areas that would be unsafe or insecure. They can also prevent spillage of materials from one (1) site to another. Noise, light, and odor pollution can be reduced at the point of origin by modifying the normal design of the operations causing the pollution. Light and noise can also be mitigated through physical barriers such as fences, walls, berms, screens and landscaping.

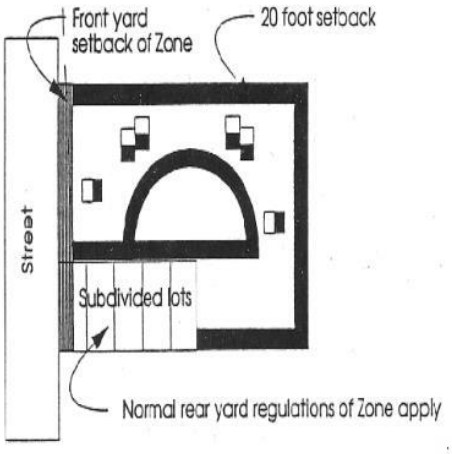
(v) *Architectural Compatibility.* In addition to the architectural considerations involved in mitigation through orientation, the materials, colors, scale, and prominence of buildings in adjacent land uses can be coordinated so there is a gradual transition from one (1) land use to another rather than a sharp and displeasing contrast. Purely aesthetic details that are "tacked" onto a building to cover up land use conflicts, however, will cause more harm than good. The architectural compatibility should rise from a total consideration of the function of each land use and the function of the space between them.

(vi) *Circulation.* Streets and parking areas can often serve to reduce certain types of land use conflicts.

Figure 14.31.070. Density Determination.

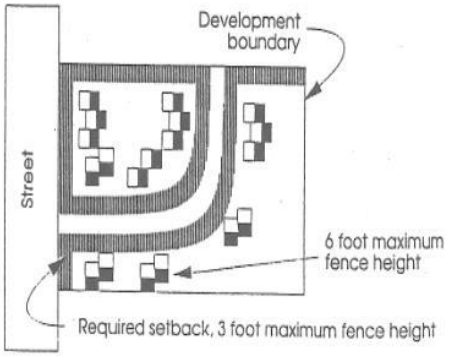


~~**Figure 14.31.080(a). Setbacks.**~~



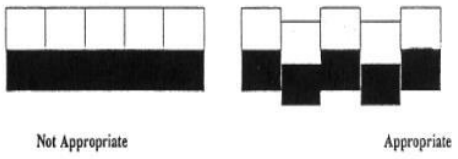
644

645 **Figure 14.31.080(b). Fence Height.**



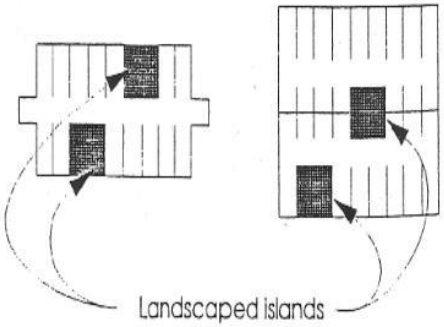
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647 **Figure 14.31.080(c). Visual Relief.**



648

649 ~~**Figure 14.31.100. Landscaped Islands.**~~


Landscaped islands

provo

WELCOME HOME

PLANNING COMMISSION

August 23, 2023

*ITEM 1

Development Services requests amendments to the Conventional and Open Space Subdivision Requirements (Chapter 15.04) and the PD Overlay (Chapter 14.31).

Citywide Application

PLOTA20230098

Purpose and Need

- The Open Space Subdivision has been problematic to administer and has potential to produce unwanted results (using unbuildable open areas to gain density in sensitive areas).

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- The Open Space Subdivision and Performance Development Overlay options created redundancies in Title 14 for laying out atypical subdivisions.

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- There is a growing need to use the Performance Development Overlay on the west side of Provo where there is a density maximum competing with rising building costs.

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- The Open Space Subdivision and Performance Development Overlay options created redundancies in Title 14 for laying out atypical subdivisions.
- The current Performance Development Overlay contains complicated standards for the public to use and for staff to review.
- There is a growing need to use the Performance Development Overlay on the west side of Provo where there is a density maximum competing with rising building costs.
- Now is the time to improve the Performance Development Overlay to get what the City wants in new developments.

Proposed Language

Chapter 15.04

~~CONVENTIONAL AND OPEN SPACE~~ SUBDIVISION REQUIREMENTS

Sections:

~~15.04.010 Purpose and Objectives.~~
~~15.04.020 Applicability.~~
15.04.0~~3~~30010 Conceptual Integrated Development Street Layout Plan.
~~15.04.040 Open Space.~~
~~15.04.050 Density and Open Space Determination.~~
~~15.04.060 Design Standards for Open Space Subdivision Lots and Structures.~~
15.04.0~~7~~70020 Land Uses for Conservation Areas.
15.04.0~~8~~80030 Conservation Easements.
15.04.0~~9~~90040 Conservation Area Design Standards.
15.04.~~10~~0050 Protection of Natural Habitat.
15.04.~~11~~0060 Guarantees and Covenants.
15.04.~~12~~0070 ~~Conventional and Open Space Subdivision~~ Application and Review Procedures.
15.04.~~13~~0080 Preliminary Subdivision Plan.
15.04.~~14~~0090 Final Subdivision Plan.
15.04.~~15~~0100 Vacating or Changing a Subdivision Plat.

~~15.04.010~~

~~Purpose and Objectives.~~

~~The purpose of this Chapter is to regulate the subdivision of land as set forth in this Title. Optional open space subdivision regulations are provided to encourage imaginative and efficient land utilization and to provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required for residential development. This is accomplished by providing greater flexibility in the location of buildings on the land, the conservation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of the City by allowing open space~~

~~residential subdivisions planned as a whole, single complex. Such open space subdivisions are intended to incorporate a development theme which includes the elements of usable open spaces, amenities, a well-planned circulation system, and attractive entrances as part of the design. Such open space subdivisions are also intended to provide a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences so that the community's population diversity may be maintained.~~

~~15.04.020~~

~~Applicability.~~

~~All subdivisions proposed in A1, RA, and R1.20 to R1.8 zones, regardless of location within the City, may apply the open space subdivision requirements of this Title unless the Planning Commission determines that the area to be developed would be better served by a conventional subdivision. Conventional and open space subdivisions shall conform with applicable requirements of this Title. The Planning Commission may require that open space subdivision regulations be applied in instances where primary and secondary conservation areas are in jeopardy and need preservation.~~

15.04.0~~3~~30010

Conceptual Integrated Development Street Layout Plan.

(1) All subdivisions require the submission of a conceptual street layout plan for undeveloped or partially developed property within five hundred (500) feet of the proposed subdivision. Such plan shall be submitted with an application for preliminary ~~plan~~plat or final ~~plan~~plat approval and such approval shall be subject to ~~the Planning Commission's~~staff review of the conceptual street layout plan for compliance with this Section. If the proposed development consists of less than three (3) acres or less than ten (10) lots and a preliminary ~~plan~~plat is not required under Section 15.04.~~13~~0080(1), Provo City Code, the conceptual street layout plan shall be submitted independently and/or with the application for final ~~plan~~plat approval.

(2) The conceptual street layout plan shall provide general compliance with the following sections of the Provo City Code:

Proposed Language

(a) Section 15.03.070, Provo City Code, Developable Land.

(b) Section 15.03.200, Provo City Code, Street Standards.

(c) Section 15.03.210, Provo City Code, Block Standards.

(d) Section 15.03.220, Provo City Code, Lot Standards.

(e) Section 15.05.160, Provo City Code, Hillside Development Standards.

(3) Preliminary plans shall integrate with the conceptual street layout plan. The conceptual street layout plan is required for the purpose of demonstrating that the proposed subdivision will not cause detriment to the integrated development of the overall area.

(4) Conceptual street layout plans demonstrating compliance with this Section shall not be construed as having regulatory authority over properties included in the plan that are not the subject of application for preliminary plan or final plan approval. Future developers of these properties may propose alternative street layouts pursuant to the standards identified in this Section and all other regulations of Titles 14 and 15, Provo City Code.

(5) Notwithstanding Subsection (4) of this Section, should ~~the Planning Commission~~staff determine that a specific conceptual street layout plan is crucial to ensuring the integrated development of an area, the ~~Planning Commission, or their designee,~~staff may forward a recommendation to the Municipal Council to amend the local street plan pursuant to Section 14.03.~~040~~050, Provo City Code.

~~15.04.040~~

~~Open Space.~~

~~The location of open space in open space subdivisions shall be consistent with policies contained in the General Plan, as interpreted by the Planning Commission, and with the requirements contained in this Chapter. The size of secondary conservation areas shall be determined as set forth in Section 15.04.050. Such areas may be used to buffer primary conservation areas from developable land.~~

~~(1) Full density credit shall be allowed for secondary conservation areas that would be buildable under local, state and federal regulations but for the requirement to provide a~~

~~secondary conservation area pursuant to Section 15.04.050. Such density credit may be applied to other unconstrained parts of an open space subdivision.~~

~~(2) Yard areas within lots shall not be counted toward meeting the minimum open space requirement. The Planning Commission may consider applying all or a portion of primary conservation areas to meeting the open space requirements below provided that such primary conservation areas are enhanced and made usable for active or passive recreation. The majority of the lots within the subdivision should abut open space.~~

~~15.04.050~~

~~Density and Open Space Determination.~~

~~(1) Density in a subdivision shall be determined using the developable land of the proposed development set forth in 15.03.070. Density shall be computed using net rather than gross acreage.~~

~~(2) A lot yield drawing shall be submitted indicating the number of lots could be created on developable land by conforming to conventional subdivision requirements and using the underlying zone as the basis for calculating density. The number of conventional subdivision lots that could be created in conformance with the requirements of the underlying zone shall establish the base density for an open space subdivision. Such density may be increased subject to receiving a density bonus and approval from the Planning Commission as provided in this Section.~~

~~(3) For every one percent (1%) increase in open space, base density may be increased by one percent (1%) as long as each lot conforms to minimum lot size requirements as shown on the tables below. For every one percent (1%) decrease in open space, base density shall be decreased by one percent (1%). In the event an open space impact fee is established, such fee may be paid in lieu of decreasing density.~~

~~(4) Minimum open space and lot yield in an open space subdivision shall be determined as shown on the tables below.~~

~~(a) A1.1 zone (base density = 1 d.u./43,560 sq. ft.)~~

Proposed Language

Minimum Open Space	Lot Yield	Lot Size Min.
50 percent (base)	10.0	8,000
55 percent	10.5	
60 percent	11.0	
65 percent	11.5	
70 percent	12.0	
75 percent	12.5	

(b) RA and R1.20 zones (base density = 1 d.u./21,780 sq. ft. or 1 d.u./ 20,000 sq. ft.)

Minimum Open Space	Lot Yield	Lot Size Min.
35 percent (base)	20	6,000
40 percent	21	
45 percent	22	
50 percent	23	

(c) R1.10 zone (base density = 1 d.u. / 10,000 sq. ft)

Minimum Open Space	Lot Yield	Lot Size Min.
25 percent (base)	43.5	5,000
30 percent	45.6	
35 percent	47.8	

(d) In the R1.8 zone: (base density = 1 d.u./ 8,000 sq. ft)

Minimum Open Space	Lot Yield	Lot Size Min.
20 percent (base)	54	5,000
25 percent	56.7	

(5) A density bonus may be allowed by the Planning Commission when one (1) of the following public benefits is provided:

(a) A density bonus for the dedication and improvement of land for public use (including active and passive recreation areas, municipal buildings, parks, trails, etc.) may be granted at the rate of a maximum of three (3) dwelling units per acre of conservation land dedicated for public use. Any proposed park shall be approved by the Parks and Recreation Board and shall comply with the Parks Department Master Plan. Dedicated conservation land shall conform to General Plan policies, particularly those sections dealing with active recreational facilities and passive trail networks, as determined by the Planning Commission.

(b) A density bonus may be granted if a fund is created to generate additional income for the sole purpose of off-setting the continuing cost of maintaining the conservation land (such as mowing meadows, weeding, paying insurance premiums and local taxes),

Proposed Language

including costs associated with active or passive recreation facilities. Spending from this fund shall be restricted to expenditure of interest so that principal may be preserved. Assuming an annual average interest rate of five percent (5%), the amount designated for an endowment fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm or organization acceptable to the Planning Commission, with experience in managing conservation land and recreational facilities. The fund shall be transferred by the developer to the entity having ownership and maintenance responsibilities of the open space (such as a homeowner's association, a land trust, or the City) prior to occupancy. Not more than half of the bonus density awarded to a particular development may come from this category.

(c) A density increase is permitted where the open space subdivision proposal provides on site housing opportunities for low or moderate income families. The affordable housing shall be intermixed throughout the project and shall be proportional to the overall project or for each phase. For each affordable housing unit provided under this Subsection, one (1) additional building lot, dwelling unit or accessory dwelling unit shall be permitted up to a maximum of fifteen percent (15%) increase in dwelling units above the base density. For the purpose of this Subsection, affordable housing means units offered for sale at prices available to families earning seventy percent (70%) to one hundred twenty percent (120%) of the county median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development. If accessory housing units are provided, they shall be conform to the requirements of Title 14.

(6) A density of bonus of two and one half percent (2 1/2%) above base density may be granted to a project for each of the amenities set forth in this Subsection as determined by the Planning Commission. The total density bonus resulting from such amenities and any density bonus granted under Section 15.04.050(5) shall not exceed twenty five percent (25%) over base density.

(a) At least seventy five percent (75%) of the dwellings are designed with an active or passive solar feature. Qualified solar features include solar water heaters, trombe walls, earth insulation of a majority of building walls, building design having south facing main exposures and solar access windows. Similar solar features may be approved by the Planning Commission.

(b) Special features such as fountains, streams, ponds, sculptures, lighting, buildings or other elements that establish a strong design theme for the subdivision and are utilized in highly visible locations. Such features shall be first reviewed and approved by the Design Review Committee.

(c) An active recreational amenity primarily for the use of the residents of the subdivision. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other similar features approved by the Planning Commission. The Planning Commission shall determine the amount of the bonus based on the cost of the amenity, its benefit to the residents of the subdivision, its size, and the number of amenities in the subdivision.

(d) The provision of day care within the subdivision accessible to all residences therein.

(e) Landscaping installed for all residential lots including front yards and all open space. The minimum requirements for such landscaping shall be as follows:

(i) Each dwelling unit shall have a minimum of three (3), one and one half (1 1/2) inch caliper, deciduous trees or four (4) foot tall evergreen trees, four (4) shrubs, and building foundation planting of appropriate shrubs, flowers, or ground cover. All shrubs shall be a minimum size of five (5) gallons.

(ii) Landscaping in the park strip in the street right-of-way shall have a unified design theme. Berming is encouraged to separate and screen residential areas from arterial and collector streets. All landscaping installed within a park strip shall be installed in accordance with Chapter 15.20, Provo City Code.

(iii) Landscaping shall include a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views. 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 wind breaks, screening, and accent planting.

(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory living

Proposed Language

~~spaces. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory living spaces, meeting the standards of Chapter 14.30, Provo City Code, may be located above or below a main dwelling unit or above a garage.~~

~~**15.04.060**~~

~~**Design Standards for Open Space Subdivision Lots and Structures.**~~

~~(1) Lots within open space subdivisions shall be exempt from the minimum development requirements of the applicable zone, but minimum lot size shall be limited as set forth in Section 15.04.050.~~

~~(2) Access to dwelling units on residential lots shall be from interior streets and not from streets bordering the subdivision. Alleys should be used wherever possible providing access to rear facing garages.~~

~~(3) Yard requirements shall be as follows:~~

~~(a) each lot shall have a front yard of not less than twenty (20) feet in depth;~~

~~(b) each lot shall have a side yard of not less than eight (8) feet. The distance between principal buildings on each lot shall be a minimum of sixteen (16) feet;~~

~~(c) on corner lots, the side yard contiguous to the street shall be not less than sixteen (16) feet; and~~

~~(d) each lot shall have a rear yard of not less than twenty (20) feet.~~

~~(4) In order to reduce potential conflicts between new residents and adjoining agricultural or recreational practices and activities, the width of the conservation open space adjacent to residential lots shall be maximized.~~

~~(5) Detached housing shall vary in design and materials as follows:~~

~~(a) Any development of fifty (50) or more one family or two family detached dwelling units shall have at least four (4) different types of housing models. Any development of fewer than fifty (50) one family dwelling units shall have at least three (3) different types of~~

~~housing models. The developer shall include, in the application for approval of the preliminary subdivision development plan, documentation showing how the development will comply with the foregoing requirement.~~

~~(b) Each dwelling unit model type shall have at least three (3) characteristics which clearly and obviously distinguish it from other model types, including different floor plans, exterior materials, roof lines, garage placement, placement of the footprint on the lot, and/or building face.~~

~~(c) The requirements of subparagraphs (a) and (b) above shall not apply to an open space subdivision containing ten (10) or fewer dwelling units.~~

15.04.~~070~~020

Land Uses for Conservation Areas.

(1) If development must be located on open fields or pastures because of greater constraints in all other parts of a site, dwellings should be sited on the least prime agricultural soils, or soils rated lowest in productivity.

(a) Open space may be left in a natural state (for example, woodland, fallow field, managed meadow).

(b) Agricultural and horticultural uses, including raising crops or livestock as permitted in the underlying zone, shall be permitted on conservation land, with the exception of raising of mink, hogs and other animals likely to produce highly offensive odors, in large numbers.

(c) Animal rights shall not be permitted on any lots smaller than the minimum lot size required in the underlying zone.

(d) Neighborhood open space uses such as picnic areas, community gardens, trails and similar low-impact passive recreational uses shall be permitted uses on conservation lands. Motorized off-road vehicle areas, rifle ranges and other uses which may have a direct impact on the adjoining residential properties shall be prohibited on conservation lands.

Proposed Language

(e) Public access to conservation areas shall be provided at a width of at least twenty (20) feet unless otherwise approved by the Planning Commission. Such access ways may be designed at a width of ten (10) feet if intended solely for bicycle or pedestrian use.

(2) ~~Conditional~~Permitted uses on conservation lands shall be limited to:

(a) equestrian facilities;

(b) wholesale nurseries and associated buildings;

(c) golf courses;

(d) utility facilities; and

(e) ~~Other~~ outdoor recreational facilities ~~as determined by the Planning Commission.~~

15.04.~~080~~030

Conservation Easements.

(1) To protect primary and secondary conservation areas from future development, conservation easements may be established as provided in the Utah Land Conservation Easement Act. In the event of a conflict between such Act and this Title, the provisions of the Act shall apply.

(2) A conservation easement is an interest in land and runs with the land encumbered by the easement and is valid whether it is appurtenant or in gross. A conservation easement shall be enforceable by the holder of the easement and its successors and assigns against the grantor and its successors, heirs and assigns.

(3) Any property owner may grant a conservation easement to a charitable organization which qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code or to a governmental entity by purchase, gift, devise, grant, lease or bequest in the same manner and with the same effect as any other conveyance of an interest in real property. A conservation easement shall be in writing and shall be recorded in the Office of the Utah County Recorder. The instrument that creates a conservation easement shall:

(a) identify and describe the land subject to the conservation easement by legal description;

(b) specify the purpose for which the easement is created, and

(c) include a termination date or a statement that the easement continues in perpetuity.

(4) Any qualified organization or entity that receives a conservation easement shall disclose to the easement's grantor, at least three (3) days prior to the granting of the easement, the types of conservation easements available, the legal effect of each easement and that the grantor should contact an attorney concerning any possible legal and tax implications of granting a conservation easement.

(5) A conservation easement may be terminated, in whole or in part, by release, abandonment, merger, non-renewal, conditions set forth in the instrument creating the conservation easement, or in any other lawful manner in which easements may be terminated if approved by the Municipal Council after receiving a recommendation from the Planning Commission.

(6) A conservation easement may be enforced or protected by injunctive relief granted by a court in a proceeding initiated by the grantor or holder of the easement. In addition to injunctive relief, the holder of a conservation easement is entitled to recover monetary damages. The holder of a conservation easement may enter the real property subject to the easement at reasonable times and in a reasonable manner to ensure compliance.

(7) No conservation easement, or right-of-way or access to a conservation easement may be obtained through the use of eminent domain.

15.04.~~090~~040

Conservation Area Design Standards.

(1) Fragmentation of conservation areas shall be minimized so that they are not divided in smaller isolated parcels. Parcels less than one hundred (100) feet wide should be avoided, unless necessary to connect other significant areas, such as streams or trails. Prime farm land should be considered for conservation wherever possible in order to continue to promote the farming activity.

Proposed Language

(2) Conservation areas shall be designed as part of larger continuous and integrated open space systems.

(3) Conservation areas shall be designed to provide buffers and to protect scenic views as seen from roadways and from public parks.

(4) A portion of conservation areas may be commonly used by subdivision residents for agricultural or horticultural purposes.

(5) No portion of any building lot may be used for meeting minimum amount of required conservation land area; however, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum amount of required conservation land.

(6) All conservation areas that are not wooded, farmed or maintained as conservation meadows shall be maintained or/and landscaped as determined by the Planning Commission. The use of berming is encouraged to buffer residential areas from arterial and collector streets and incompatible land uses.

(7) A maintenance plan shall be prepared for common open space areas. Such plan shall be submitted with an open space subdivision application and shall, at a minimum, address the following:

(a) vegetation management;

(b) watershed management;

(c) debris and litter removal;

(d) fire access and suppression;

(e) maintenance of public access and/or maintenance of limitations to public access;

(f) horticultural and agricultural management; and

(g) other factors deemed necessary by the Planning Commission (such as funding, staffing, insurance and remedies in the case of default).

15.04.~~100~~050

Protection of Natural Habitat.

Conservation purposes include the protection of a fish, wildlife or plant habitat. This would include the preservation of a habitat or environment that to some extent has been altered by human activity if fish, wildlife, or plants exist there in a relatively natural state as determined by the Utah Division of Wildlife Resources.

15.04.~~110~~060

Guarantees and Covenants.

(1) Adequate guarantees shall be provided to protect all primary and secondary conservation areas from future development. The Chief Building Official shall not issue a Certificate of Occupancy for any structures in such subdivisions until all required guarantees have been submitted to and approved by the Planning Commission. ~~The developer of an open space subdivision may elect any of the following to preserve conservation areas:~~

~~(a) Furnish and record protective covenants which will guarantee the retention of the open land area.~~

~~(b) Create a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.~~

~~(c) Establish a conservation easement restricting the area against any future building or use, except as approved as part of the open space subdivision.~~

(2) The developer shall be required to develop and provide for the maintenance of all common open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City accepts dedication and approves the annexation of the property to said park.

(a) The care and maintenance of such open space shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plat approval.

Proposed Language

(b) Maintenance of open space reservations shall be managed by persons, partnerships, or corporate entities in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

15.04.~~120~~070

~~Conventional and Open Space Subdivision~~ Application and Review Procedures.

Notwithstanding the provisions of Section 15.01.020, Provo City Code, the following steps or procedures shall be followed in order to obtain approval of a subdivision:

(1) *Step 1.* Any person, partnership, firm, or corporation wishing to construct a subdivision with three (3) acres or more or ten (10) lots or more, ~~shall~~may first participate in a preapplication conference with the ~~Plan Coordinating~~Coordinator Review Committee.

(2) *Step 2.* If the proposed development is located within the high water table area as defined in Section 15.03.010, Provo City Code or is regulated by Chapter 15.05 (Sensitive Lands), Provo City Code, compliance with the same shall be presented at the time of application for a preliminary or final subdivision.

(3) *Step 3.* A recent policy of title insurance or a preliminary title report showing that the person(s) listed as the owner(s) in the owner's dedication certificate on a plat or development have sufficient control over the premises to effectually dedicate streets within the development where required and to follow through with all other requirements of the City Code. The developer shall provide a tax clearance indicating that all taxes, interest, and penalties owing on the subject property have been paid.

(4) *Step 4.* The developer has a preliminary plat prepared by a licensed surveyor according to City standards, and shall include a vicinity plan, drawn at a readable scale, indicating the location of property to be developed and all adjoining property under the ownership of the developer to be developed as part of a future development.

(5) *Step 5.* Developer submits a PDF of the preliminary plat with a completed application, required fees, ~~engineer or surveyor's computer-generated information disk~~ and all supporting documents to ~~the Planning Commission~~ city staff.

(6) *Step 6.* ~~Planning Commission or designated staff, in conjunction with the City Engineer and others as deemed appropriate,~~ City Staff reviews the preliminary plat for compliance with the Provo City Code. If corrections to said plat are necessary, or if associated drawings or studies are required, such corrections shall be resolved and approved by the City Engineer and others as deemed appropriate before the plat is recorded. In any subdivision contiguous to property owned by a public entity, such entity shall be notified of the proposed subdivision and shall be invited to review the preliminary plat.

(7) *Step 7.* City staff approves, conditionally approves or denies preliminary plat based upon findings that said plat does or does not comply with applicable provisions of the Provo City Code. Preliminary approval shall expire one (1) year from the date the preliminary approval was granted unless a final plat is submitted and approved for all or a part of the subdivision. When a final subdivision does not cover the entire area included in a preliminary subdivision plat, approval of the unplatted area shall be extended to one (1) year from the date of final approval of a final plat. After expiration of the preliminary approval, no final approval shall be granted unless the developer makes a complete re-submittal including new drawings and payment of applicable fees.

(8) *Step 8.* Developer has a final plat prepared by a licensed surveyor according to City standards and submits such plat, together with the required improvement and other drawings done by a licensed engineer, and all other supporting documents and reports, along with required fees. The developer shall provide ~~two (2)~~a permanent reproducible ~~copies~~copy on Mylar of the final proposed plat. A final subdivision application shall expire one (1) year from the date of the application unless final approval is received, or sufficient progress has been made toward final approval as determined by the Development Services Director.

(9) *Step 9.* The ~~Planning Commission or designated~~ city staff reviews the final plat, in conjunction with the City Engineer and others as deemed appropriate.

(10) *Step 10.* Developer posts a bond in the form of cash or an irrevocable letter of credit, along with a subdivision improvements agreement, guaranteeing installation of the required improvements.

Proposed Language

(11) *Step 11.* The City Engineer, when satisfied that the plat conforms with all engineering concerns, signs and seals the plat, prior to forwarding the plat to Development Services Department. The Development Services Director~~, on behalf of the Planning Commission,~~ signs the plat after receiving a recommendation from City departments for approval or conditional approval.

(12) *Step 12.* The Mayor approves, disapproves, or conditionally approves the final plat with modifications as necessary to make the final plat conform to applicable City standards and after final approval, the plat is recorded in the office of the Utah County Recorder.

(13) *Step 13.* After the final plat is recorded building permits ~~or fast tracks~~ may be issued for individual subdivision lots.

15.04.~~130~~080

Preliminary Subdivision Plan.

(1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3) acres or greater or ten (10) lots or greater.

(2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City a plan, in an approved electronic format, showing the proposed development layout, drawn to scale, and the following information:

(i) A complete and accurate legal description;

(ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor of the development, and the owners of the land immediately adjoining the land to be subdivided;

(iii) Proposed name of the development;

(iv) The location of the development as forming a part of the larger tract or parcel where the plan submitted covers only a part of the developer's tract;

(v) A conceptual integrated development plan meeting the requirements of Section 15.04.~~030~~010, Provo City Code;

(vi) A preliminary infrastructure plan for providing necessary streets, water, sewer, storm drainage, and electrical distribution for the entire tract including the point from which said services are to be extended;

(vii) A summary indicating the total area within the development, total area and dimensions of each lot, and proposed net density of the development;

(viii) Any information noted as required in the Provo City Public Works Department Development Guidelines referenced in Section 15.03.020(3)(b)(ii), Provo City Code.

(3) Based on the size, scope or complexity of the development proposal, staff may require any other information required to ensure that the proposed project complies with applicable requirements of the Provo City Code and standards and specifications adopted by the City.

(4) A final subdivision plan, meeting the requirements of Section 15.04.~~140~~090, Provo City Code, shall be submitted within twelve (12) months of the ~~Planning Commission~~staff approval of the preliminary subdivision plan. If a final subdivision plan is not submitted within the required time period, the City may initiate proceedings to rezone the property back to the zone classification that existed on the property prior to the approval.

(5) If an applicant seeks to revise a preliminary subdivision plan, the new plan shall be subject to all new sections of the Provo City Code and other new City ordinances in effect at that time.

15.04.~~140~~090

Final Subdivision Plan.

(1) A final subdivision plan shall be prepared for all developments which require a recorded plat as determined by the City Engineer. ~~In instances where a plat is not required, a lot line adjustment application must be verified and signed by the City Engineer and Development~~

Proposed Language

~~Services Director, or designee, and recorded with all other applicable documents required by the Utah County Recorder.~~

(2) A final subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

(a) The developer has signed an application form and submitted it to the City;

(b) The developer has paid all application fees as evidenced by a receipt from the City; and

(c) The developer has submitted to the City final drawings, in an approved electronic format. The final drawings or plans shall be reviewed, stamped and signed by a professional engineer and include the following:

(i) Development name and the general location of the development;

(ii) A north point and scale on the drawing and the date;

(iii) *Accurately drawn boundaries, showing the proper bearings and distances, properly tied to public survey monuments.* These lines should be heavier than street and lot lines to clearly define said subdivision boundaries;

(iv) The names, width, lengths, bearings, and curve data on center lines of proposed public or private streets, alleys or easements. All proposed streets shall be named or numbered in accordance and in conformity with the street naming and numbering system of the City;

(v) Boundaries, bearings and dimensions of all portions within the development, as intended to be dedicated to the use of the public;

(vi) Lines, dimensions, bearings, and numbers of all lots;

(vii) *Blocks and parks reserved for any reason within the development.* All lots and blocks shall be numbered consecutively under a definite system;

(viii) Drawings showing plan layout, profile, and detailed design for sewer systems, water systems, storm systems and electrical service lines, including street lights;

(ix) Plan, profile and typical cross-section drawings of all streets, bridges, culverts and other drainage structures;

(x) Grading and drainage plan indicating the finished grade by solid line contours superimposed on dashed line contours indicating the existing topography for the area of the final plan. The plan shall identify natural slopes which exceed thirty percent (30%) or greater slope and include quantities of borrowed or excess material;

(xi) All fences, barriers or landscaping as required;

(xii) All special improvements required as conditions of development approval;

(xiii) A final plat, meeting Provo City Standards, prepared by a professional land surveyor.

(3) Upon notice of final approval, one (1) copy of the final plat on a twenty-four (24) inch by thirty-six (36) inch mylar shall be submitted as part of the final plan approval.

(4) All final subdivision plans shall reference any related previously approved preliminary subdivision plan.

(5) The final subdivision plan shall conform to the preliminary subdivision plan, except in those instances where modifications have been required.

(6) A final subdivision plan application shall be subject to the expiration terms stated in Section 15.0, Provo City Code.

15.04.~~150~~100

Vacating or Changing a Subdivision Plat.

(1) A petition to vacate, alter or amend an entire plat, or to vacate a street, or alley in a subdivision shall conform to Utah Code.

(2) Petitions to adjust lot lines between adjacent properties may be executed upon the recordation of an appropriate deed, and the recordation of an amended plat drawn according the provisions of Section 15.04.~~140~~090, Provo City Code, if:

(a) the adjoining property owners consent to the lot line adjustment, including owners adjacent to the subject property across the street, if applicable;

(b) no new dwelling lot or housing unit results from the lot line adjustment;

Proposed Language

Chapter 14.31

PD - PERFORMANCE DEVELOPMENT OVERLAY ZONE

Sections:

14.31.010 Purpose and Objectives.
14.31.020 Definitions.
14.31.030 Use In Combination.
14.31.040 Zones With Which the Planned Development Zone May Be Combined.
14.31.050 Permitted Uses.
14.31.060 Variations to Underlying Zone Permitted.
14.31.070 Density Determination.
14.31.080 Minimum Performance Standards.
14.31.090 Density Bonus.
~~**14.31.100 Density Bonus Calculations.**~~
14.31.~~110~~100 Density Bonus Amenities ~~Design Requirements.~~
14.31.~~130~~110 Concept Plan Approval.
14.31.~~140~~120 Final Project Plan Approval.
14.31.~~150~~130 Guarantees and Covenants.
~~**14.31.160 Fees.**~~
14.31.~~170~~140 Appendix.

14.31.010

Purpose and Objectives.

(1) The purpose of the Performance Development Overlay Zone is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to insure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of Provo City.

(2) A Performance Development (PD) is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open spaces, diversity of lot design or residential use, amenities, a well-planned circulation system, and attractive entrances as part of the design. The incorporation of one (1) or two (2) of these elements into a development does not make a PD. The combination of all these elements is necessary for the development of a PD.

14.31.020

Definitions.

For the purposes of this Chapter, certain words and phrases have the following meanings:

"Alley" means a public or private vehicular street designed to serve as secondary access to the side or rear of properties whose principal frontage is on some other street. See Chapter 15.03, Provo City Code.

"Base density" means the maximum number of residential units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied.

"Bonus density" means the maximum number of residential units per developable acre in the PD allowed when the project complies with the bonus density design requirements of this Chapter.

~~**"Collective driveway"** means a driveway, at least twelve (12) feet in width, serving not more than two (2) lots, or two (2) residential dwelling units, or twenty (20) feet in width serving not more than two (2) lots and four (4) single residential dwelling units and not exceeding one hundred twenty (120) feet in length. Except that in hillside areas (See Section 15.08.160(5)(b), Provo City Code) a collective driveway, at least twenty (20) feet in width may extend three hundred fifty (350) feet.~~

"Developable land" means land under thirty percent (30%) slopes which is capable of being improved, subject to the provisions Chapter 15.08 of the Provo City Code, with landscaping, recreational facilities, buildings, or parking. 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 land, and must be subtracted out of the total acreage before the

Proposed Language

density calculation is made. (Access aisles in parking lots and driveways shall not be considered private streets for purposes of this Section.)

"Developed common activity area" means open green space which is designed to provide activity areas for use by all residents such as playgrounds, recreational courts, picnic pavilions, gazebos, and water features. Common developed activity areas shall be held by all residents in common ownership through a homeowners association or shall be available for use by all residents if the PD will be held in single ownership.

"Driveway" means a paved area used for ingress or egress of vehicles, and allowing access from a street to one (1) building, structure, or facility.

"Gross acreage" means the total amount of land in a PD development.

"Net acreage" means the total amount of land in a PD development excluding rights-of-way or roads.

"Open green space" means a planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership that is unoccupied and unobstructed by buildings and hard surface, such as asphalt or cement, 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.

~~**"Parking lot"** means an open area, other than a street or alley, used for the parking of more than four (4) automobiles whether for free, or for compensation. Parking spaces shall not be provided within a required front yard or side yard adjacent to the street on a corner lot.~~

"Parking lot aisle" means the traveled way by which cars enter and depart parking spaces. Aisle width standards are set forth in Section 14.37.100, Provo City Code. Parking aisles shall not be considered streets for purposes of this Chapter.

"Periphery" means a one hundred (100) foot depth around the perimeter of the project measured inward from the property line.

14.31.030

Use In Combination.

The Performance Development (PD) overlay zone may be used in combination with existing conventional zones as designated herein, and the provisions of the performance development overlay zone shall become supplementary to the provisions of the zone with which it is combined. The PD zone shall not be applied to a land area as an independent zone. Property to which the PD zone has been applied shall be developed only in conformance with an approved ~~project~~ plan. When used in combination with the designated zones, the Performance Development zone designated (PD) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. ~~When applied to land area, said combined designation shall be shown on the Zone Map of Provo City as set forth in the following example:~~

~~Example: If the Performance Development (PD) zone were being combined with the Residential zone (R1), it would be designated on the Zone Map of Provo City as "R1(PD)."~~

14.31.040

Zones With Which the Planned Development Zone May Be Combined.

The Performance Development overlay (PD) zone may be combined with the following zones: A1, RA, R1, and R2 zones.

14.31.050

Permitted Uses.

Uses permitted in the Planned Development overlay (PD) zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the PD zone has been combined, except as follows:

(1) In one and two-family zones, dwelling units may be clustered in common-wall construction with a maximum of ~~eight (8)~~six (6) consecutively attached units. Such units may have no more than two (2) walls in common, with no units above other units.

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(2) Accessory uses to the PD which are located in a common main building may be permitted. Accessory uses shall include recreational facilities and structures, day care centers, personal services, and RV parking, when approved as part of the final development plan.

~~(3) When combined with an R5 zone only, the following service and commercial uses may be allowed in conjunction with an apartment development provided said uses are located on the ground floor only, meet all of the off-street parking requirements of Chapter 14.37, Provo City Code and are approved in accordance with all of the standards and procedures of this Chapter.~~

~~Use No.~~	~~Use Classification~~
~~4811~~	~~Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4821~~	~~Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4824~~	~~Gas pressure control stations~~
~~4831~~	~~Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)~~
~~4835~~	~~Irrigation distribution channels~~
~~4836~~	~~Water pressure control stations and pumping plants~~
~~4841~~	~~Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)~~
~~4844~~	~~Sewage pumping stations~~
~~4864~~	~~Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)~~
~~4873~~	~~Storm drain or right-of-way (predominantly covered pipes or boxes)~~
~~5410~~	~~Groceries (convenience market, less than five thousand (5,000) square feet)~~
~~5814~~	~~Cafeterias, lunch counters, snack bars, etc., (non-auto oriented)~~
~~5912~~	~~Prescription pharmacy~~
~~5941-42~~	~~Books, magazines, stationery~~
~~6111~~	~~Bank branch (non-auto oriented)~~
~~6216~~	~~Self-service laundry~~

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Use No.	Use Classification
6230	Beauty and barber services
6252	Laundry and dry cleaning (pick-up station only)
6339	Stenographic services
6500	Professional Services (except 6515)
6910	Religious activities

14.31.060

Variations to Underlying Zone Permitted.

Upon combining the PD zone with an appropriate existing zone, variations from the development standards of said underlying zone may be permitted provided the variations are specifically adopted as part of the approved project plan or approved supporting documents. Variations, however, shall not include changes in the permitted uses allowed by the zone with which the PD zone has been combined , except to the extent set forth herein.

(1) *Base Density.* The maximum number of residential units allowed per developable acre in a PD which meets only the minimum development requirements of this Chapter shall be calculated using the Lot Area Per Dwelling Requirement of the underlying zone:

ZONE	LOT AREA/DWELLING
RA	1 unit per 21,780 square feet
R1.20	1 unit per 20,000 square feet
R1.15	1 unit per 15,000 square feet

R1.10	1 unit per 10,000 square feet
R1.9	1 unit per 9,000 square feet
R1.8	1 unit per 8,000 square feet
R1.7	1 unit per 7,000 square feet
R1.6	1 unit per 6,000 square feet
R2	2 units per 8,000 square feet

(2) Notwithstanding the foregoing provision, in no event shall the maximum number of residential units exceed the number of units per developable acre in the PD that could be achieved, without a density bonus, by conventional development of the property in the zone with which the PD is proposed to be applied. Such maximum number of residential units shall be reasonably determined by the Planning Commission using development criteria and ordinance requirements applicable to the zone with which the PD is proposed to be combined.

(3) In the event an approved project plan is proposed to be amended and a density increase is requested, the Planning Commission may, subject to the requirements of this Chapter, approve such density increase; provided, however, that any density increase shall not exceed by more than ten percent (10%) the density shown on the originally approved project plan.

14.31.070

Density Determination.

Density in a PD shall be determined by using the “developable land” of the entire proposed development. Developable land is land under thirty percent (30%) slope which is capable of being improved with landscaping, recreational facilities, buildings, or parking. Land devoted to street usage in PD subdivisions shall not be considered developable acreage and must be subtracted out of the total acreage used to determine density. Refer to Figure 14.31.070 at the end of this Chapter.

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14.31.080

Minimum Performance Standards.

A performance development established under the provisions of this Chapter shall conform to the standards and requirements of this Section. Project plans shall be approved or denied on the basis of performance measured against development standards adopted in accordance with this Chapter. ~~and on the findings made by the Planning Commission as required by Section 14.31.120(2).~~

(1) *General Standards.*

(a) *Single Ownership or Control.* The area proposed for a performance development shall be in one (1) ownership or control during development to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans. Mere development agreements between individuals shall not satisfy this requirement. Individual ownership, partnerships, corporations, and other legally recognized entities are acceptable.

(b) *Scope of Plan.* A plan for the development of a performance development shall cover the entire area proposed for development. Upon approval the development shall be strictly in accordance with the plan. Areas not proposed for development shall be designated as open space and shall conform to minimum landscaping requirements of this Chapter.

(c) *Design Team.* The final development plans shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.

(d) *Minimum Area.* The minimum land area for a performance development shall be as follows:

A1 zone	5 acres
RA zone	5 acres

R1 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~
R2 zone	2 acres ~~(Exception: No minimum shall be required in the Neighborhood Conservation Area [as defined in Section 14.10.090] if one-family detached residential units are proposed.)~~

(e) *Hazardous Conditions.* If located in "sensitive lands," "high water table," and/or "floodplain," the project must comply with all provisions of the Sensitive Lands, Critical Hillside, and/or Floodplain sections of the Provo City Code.

(f) *Setbacks.* Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line. ~~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 development abuts a street and a minimum twenty (20) foot setback at those locations where development abuts other parcels of land outside the project. Departures from these setbacks must be justified by unique and unusual circumstances related to the site, or for reasons of improved design.~~

~~(i) Notwithstanding the above provision, if the development has subdivided one-family lots which abut other parcels of land, the specific zone regulations shall apply for rear and side yard setbacks on the subdivided lots. The required setback area shall be landscaped.~~

~~(ii) Structures shall be placed in such a way as not to impair lines of sight for pedestrian or vehicular traffic. Placement shall be in accordance with the provisions of Section 14.34.100, Provo City Code, Clear Vision Area - Corner Lots.~~

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~~(iii) Garages with entrances facing directly on private or public streets, whether in a front or side yard, shall be set back at least twenty (20) feet from the property line, or shall be located within five (5) feet of said property line.~~

~~(iv) A minimum ten (10) foot landscaped setback shall be maintained from all interior roadways.~~

~~(v) Minimum distance between main buildings in the development shall be fifteen (15) feet for single story buildings, twenty (20) feet for two story buildings, and twenty five (25) feet for three or more stories. Refer to Figure 14.31.080(a) at the end of this Chapter.~~

(g) *Fence Height.* If fencing is proposed adjacent to a public or private street, the maximum fence height shall be three (3) feet for fences located in the required front yard and side yard setback facing a street as determined in the underlying zone. Fence heights located outside of these setbacks shall be limited to a maximum height of six (6) feet. 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:

(i) Not isolate surrounding neighborhoods;

(ii) Be consistent with the theme of the development; and

(iii) Be compatible with the neighborhood.

If fencing isolates property between the fence and the public street, the development shall provide means to ensure continued maintenance of this area. Refer to Figure 14.31.080(b) at the end of this Chapter.

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

(i) *Utilities.* All utilities shall be placed underground, including telephone, electrical, and television cables. Dwelling units under separate ownership shall have separate utility metering, unless otherwise approved by the Energy and Water Departments.

(j) *Phasing.* If the project is to be done in phases, no remnant parcels shall be created. Any land not proposed for development shall be designated as open space.

(k) *Air Quality.* The use of coal or wood burning furnaces, fireplaces or other heating devices which burn coal are prohibited unless especially equipped with devices proven to minimize air pollution.

(l) *Water Conservation.* Low volume irrigation systems with automatic controllers shall be used. Such an irrigation system includes, but is not limited to, low volume sprinkler heads, drip emitters, and bubbler emitters. A minimum of PVC schedule 40 or equivalent shall be used for main lines and under driveway areas, and a minimum of PVC schedule 200 or equivalent shall be used for lateral lines.

(2) *Compatibility Standards.*

~~(a) *Neighborhood Compatibility.* The processes set forth in the Administrative Guidelines in Section 14.31.170(A), Identifying Impacts on Compatibility, shall be followed. All issues concerning the compatibility of the project with adjacent property and the neighborhood generally shall be resolved or mitigated.~~

~~(b)~~(a) *Land Use Conflicts.* Land use conflicts that may exist between the proposed performance development and surrounding land uses shall be examined as provided in Section 14.31.140~~170(B), Guidelines Pertaining to Land Use Conflicts~~.

~~(c)~~(b) *Curb appeal.* 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 PD. 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 such waiver does not negatively impact the continuity of the existing street scape.

~~(d)~~(c) *Height.* The maximum height of buildings within the performance development shall be the same as that permitted in the underlying zone with which the PD Zone is combined. Height requirements of the adjacent zone (if more restrictive) shall apply on the periphery of the project.

~~(e) *Building Materials.* The type of exterior building material and ratio of surface coverage for the proposed facade for other than one family dwelling units shall be similar in material~~

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~~and ratio of coverage to fifty-one percent (51%) of the existing residential structures adjacent to the development. (e.g. The majority of the existing buildings have the lower one-third (1/3) of the facade in brick on the front and the rest is siding, the new development shall have as a minimum one-third (1/3) of the front in brick and the rest in siding.) This provision shall not limit the use of brick in place of other material.~~

~~(f) *Size of Dwellings and Dwelling Structures.* One and two-family dwellings in the PD zone shall meet the minimum floor area requirements of the respective underlying zone, as listed in Section 14.34.310, Provo City Code. In Very Low and Low Density neighborhoods, as designated by the Provo City General Plan, no more than four (4) dwelling units shall be combined in a single multiple family or apartment dwelling structure.~~

~~(g)~~(d) *Garages.* In R1 and R2 zones, required off-street parking (excluding visitor and RV parking) shall be provided as required in the underlying zone and in enclosed garages or carports that are architecturally compatible with the main structures as set forth in Section 14.34.310, Provo City Code. Carports may only be approved in those cases where the applicant demonstrates, to the satisfaction of the Commission, that carports are used predominantly in the surrounding neighborhood, and that the proposed development would still provide a more pleasant and attractive living environment than would be obtained under the conventional residential subdivision standards. When garages are provided for parking purposes within any zone, the size of garage shall be consistent with the requirements set forth in Section 14.37.100, Provo City Code.

~~(h)~~(e) *Refuse Bins.* Refuse bins shall be stored in screened enclosures which are architecturally compatible in style and materials with the character of the development. Bins shall be located so they are not visible from outside circulation routes, and so they do not restrict vehicular movement or parking.

~~(i) *Screened Parking.* Parking lots of six (6) or more spaces shall be effectively screened from public streets and adjacent property ownerships.~~

~~(j)~~(f) *Glare Reduction.* Exterior lighting shall be designed such that the light source will be sufficiently obscured to prevent excessive glare into any residential area.

(3) *Design Theme.*

(a) *Entry Statement.* 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 trees.

(b) *Visual Relief.* Attached dwelling units shall have visual relief in facade and roof line which adds variety and rhythm to the design and avoids monotonous straight lines. Refer to Figure 14.31.080(c) at the end of this Chapter.

(c) *Unified Design.* Unifying architectural and landscaping design elements shall be carried throughout the project. Therefore, detailed landscaping plans shall be submitted, along with building elevation views and floor plans. In the case of PD subdivisions, design guidelines or covenants may be substituted for building plans and individual lot landscaping plans.

(4) *Open Space.* No less than ten percent (10%) of the total gross acreage in a PD shall be devoted to open green space as defined in Section 14.31.020, Provo City Code. Such space shall be consolidated and may not count required yards and building setbacks.

~~(a) *Minimum Open Green Space.* Minimum percentages of Open Green Space (OGS) for each zone are given in the following table, assuming no density bonus is granted:~~

~~Zone~~	~~OGS~~
~~A1.1~~	~~.80~~
~~RA~~	~~.80~~
~~R1~~	~~.60~~
~~R2~~	~~.40~~

Each phase of development shall provide its proportionate required open green space needed for that phase.

(b) *Hardscape.* 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.

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(c) *Common Activity Areas.* At a minimum, open green space shall include either a playground with play equipment or pathways with benches and tables through a natural or planted landscaped area.

(i) Subdivided, one-family lots shall provide developed common activity area at a ratio of one thousand (1,000) square feet per lot.

(d) *Saving Existing Trees.* Developments shall be designed to incorporate existing large trees, clusters of trees or clusters of large shrubs. The Planning Commission, or a designated subcommittee, shall review the appropriateness of removal of portions of these types of vegetation if proposed in the development plan. The Commission may approve removal of some or all vegetation based on a determination of the benefits of the existing plant material and the efforts made to save and incorporate the existing plant material into the design of the project versus the problems the plant materials may create for the project in terms of general construction techniques, impact removal will have to the character of the area, the topography of the site, and harmful conditions the vegetation may create.

(i) As one of the purposes of a PD is to protect natural features, the Planning Commission may deny approval of a PD if it is determined there has been removal of trees or shrubs prior to submittal.

(e) *Landscaping Per Unit.* A minimum of three (3), one and one-half (1 1/2) inch caliper deciduous trees or four (4) foot tall evergreen trees, and four (4) shrubs shall be planted for each lot in a PD subdivision, as well as building foundation planting of appropriate shrubs, flowers, or ground covers. Landscaping in the park strip in the street right-of-way shall have a unified design theme in PD subdivisions. Multiple family PD's shall provide a minimum of one (1) deciduous or evergreen tree per two (2) units, and two (2) shrubs per unit. The intent is to have a variety of plant materials to give color and texture; to direct traffic; to frame views; and to screen undesirable views.

(i) 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 wind breaks, screening, and accent plantings.

(f) *Water Conservation.* The majority of new plant material used for landscaping the development should be water conserving plants. The landscaping design shall locate plant

materials in similar water usage demand zones to ~~insure~~ensure proper irrigation coverage and reduce wasteful irrigation coverage and reduce wasteful watering.

(i) The use of turf grass shall be limited to areas of high foot traffic, play areas, and other appropriate areas as determined by the Planning Commission. All other areas which are normally planted with lawn, shall be planted with ground covers, shrubs, or trees.

(ii) Drip irrigation systems shall be designed and installed to irrigate all shrub and tree areas as needed.

(5) *Streets.* The type and arrangement of roadways peripheral to and abutting any development shall be in compliance with the Master Street Plan, the Official Map, and any Local Policy Street Maps for the area of the development. 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 Planning and Engineering Staff, shall determine if the street should be extended as a through street or as a cul-de-sac during the concept or preliminary approval.

(a) *Public Streets.* All dedicated public streets shall be constructed to City standards including width, as outlined in Section 15.03.~~040~~200, Provo City Code.

(b) *Private Streets.* All streets shall be constructed to City standards including width, as set forth in ~~Section 15.03.040, and~~ Section 15.03.200, Provo City Code. The standards for local residential streets are identical for public and private streets. Refer to Figure 15.03.200 in Title 15.

14.31.090

Density Bonus.

PD Developments are eligible for a density bonus based on additional amenities provided per Section 14.31.100, Provo City Code. Each amenity is assigned a standard percentage increase in

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dwelling units above the underlying zone density limit. The total density bonus for a project shall not exceed forty percent (40%) above the underlying zone density limit.

~~Density in excess of the base density for the underlying zone may be considered for projects which comply with the bonus density design requirements. The amount of density bonus shall be determined by the type of Bonus Density Design Requirements incorporated in the development proposal. In no case shall the density bonus exceed the maximum density allowed for the zone in which the development occurs according to the following chart:~~

~~Zone~~	~~Base Density~~	~~Max Density~~
~~RA~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA*~~
~~R1.20~~	~~2.17 Units/NDA~~	~~3.04 Units/NDA~~
~~R1.15~~	~~2.90 Units/NDA~~	~~4.06 Units/NDA~~
~~R1.10~~	~~4.35 Units/NDA~~	~~6.09 Units/NDA~~
~~R1.9~~	~~4.84 Units/NDA~~	~~6.77 Units/NDA~~
~~R1.8~~	~~5.44 Units/NDA~~	~~7.62 Units/NDA~~
~~R1.7~~	~~6.22 Units/NDA~~	~~8.71 Units/NDA~~
~~R1.6~~	~~7.26 Units/NDA~~	~~10.16 Units/NDA~~

~~* Net Developable Acre~~

~~**14.31.100**~~

~~**Density Bonus Calculations.**~~

~~For applicants requesting a density greater than the base density, the Planning Commission shall determine whether the applicant has complied with the necessary design components as provided in Section 14.31.110 of this Chapter and shall assign density points as applicable. The~~

~~additional units per acre allowed above the base density for the PD shall be determined by multiplying the total number of density bonus points by the density coefficient of the underlying zone. This figure is the additional number of units per acre allowed above the base density. This number when added to the base density will determine the total density per acre for the project; provided that the number shall not exceed the maximum density allowed in the zone. (Example: The project is in an R2 zone and the design is awarded 75 bonus points. 75 x .0435 = 3.26 additional units per acre. 3.26 + 10.89 (base density) = 14.15 maximum units per acre for the development.) The density coefficient for each underlying zone and the total amount of points needed for the maximum density are listed below:~~

~~Zone~~	~~Density Coefficient~~	~~Maximum Density Points~~
~~RA~~	~~.0087~~	~~100~~
~~R1.20~~	~~.0087~~	~~100~~
~~R1.15~~	~~.0116~~	~~100~~
~~R1.10~~	~~.0174~~	~~100~~
~~R1.9~~	~~.0193~~	~~100~~
~~R1.8~~	~~.0218~~	~~100~~
~~R1.7~~	~~.0249~~	~~100~~
~~R1.6~~	~~.0290~~	~~100~~
~~R2~~	~~.0435~~	~~100~~

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14.31.100~~10~~

Density Bonus Amenities.~~Design Requirements.~~

(1) *Building Variety*. Any development providing four (4) or more types of housing models defined by different floor plans, exterior materials, or roof lines are eligible for a ten percent (10%) increase in density.

(2) *Affordable Housing.* Any PD which provides deed-restricted affordable housing defined by 80% AMI (Average Median Income) may be eligible for a density bonus. The percentage of density bonus given for affordable housing shall be equal to the percentage of affordable housing units provided, up to forty percent (40%) above the underlying zone base density.

~~If greater density is requested above the base density, a PD development shall comply with one (1) or more of the following bonus density design requirements depending upon the desired density increase. The Planning Commission shall review and determine if the proposed design complies with the intent of the design requirement before the points are granted. The density bonus points for each individual design component are in parentheses at the end of each requirement. In order to receive the maximum density allowed in the zone, the development shall have received bonus density points from at least one design component in each of the following categories: energy efficiency, building design, design theme, landscaping, and open green space. A design component cannot be used to obtain points in more than one category. The density bonus design requirements are as follows:~~

~~(1) *Energy Efficiency.*~~

~~(a) *Insulation.* All dwellings and main buildings shall have R-19 wall insulation and R-38 ceiling insulation. (Up to 10 points.)~~

~~(b) *Solar Design.* All dwellings are designed with an active or passive solar feature. The solar feature shall be a solar water heater, trombe wall, earth insulation of a majority of the walls, the building designed so that the main exposure faces south and has windows to allow solar access, or other features as approved by the Planning Commission. (Single feature per unit throughout the entire project, up to 20 points. Combination features per unit throughout the entire project, up to 30 points.)~~

~~(2) *Building Design.*~~

~~(a) *Materials.* All facades of each dwelling structure, exclusive of windows or doors, have a minimum coverage of eighty percent (80%) of the exterior surface in either brick or stone. (Up to 20 points.)~~

~~(b) *Attached Garage.* Required parking for each unit is provided for by an attached garage. (Up to 25 points.)~~

~~(c) *Carports.* All required parking for each unit is covered by carports. (Up to 10 points.)~~

~~(d) *Roof Materials.* All roofs of main buildings are clad with wood shake, tile, or slate shingles. (Up to 15 points.)~~

~~(3) *Design Theme.*~~

~~(a) *Installed Landscaping.* Landscaping is designed and installed along all streets of the development according to a theme which provides units and interest. (Up to 20 points.)~~

~~(b) *Theme Lighting.* Theme lighting is used throughout the development for street lighting, lighting of walkways, parking areas, entrances, and building exteriors. (Up to 15 points.)~~

~~(c) *Fencing.* Perimeter fencing is used throughout the project that matches the building design, i.e., masonry columns or piers using the same brick or stone as the buildings. (Up to 15 points.)~~

~~(d) *Special Features.* Special features such as fountains, streams, ponds, sculptures, buildings or other elements which establish a strong theme for the development and are utilized in highly visible locations in the development. (Up to 20 points.)~~

~~(4) *Parking Areas.*~~

~~(a) *Screening.* Parking lots of twenty (20) or more stalls are screened from view by means of berming or landscaping around the perimeter of the parking lot. (Up to 20 points.)~~

~~(b) *Landscaped Islands.* Parking lots of twenty (20) or more stalls or a continuous row of parking over ninety (90) feet in length has a landscaped island(s) which provides landscaping at a ratio of one (1) square foot of landscaping per thirteen (13) square feet of hard surface. (Up to 15 points.) Refer to Figure 14.31.100 at the end of this Chapter.~~

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~~(c) *Shade Trees.* Areas with five (5) or more uncovered parking stalls are designed to include minimum two (2) inch caliper trees located in such a manner as to shade fifty percent (50%) of the parking area upon maturation of the trees. (Up to 15 points.)~~

~~(5) *Recreational Amenities.*~~

~~(a) *Active Recreation.* The PD includes a recreational amenity primarily for the use of the residents of the development. Amenities may include swimming pools, sports courts, spas, barbecue and picnic facilities, or other features as approved by the Planning Commission. The Planning Commission may determine the points based on the cost of the amenity, its benefit to the residents of the development, its size and the number of amenities in the development. (Between 5 to 35 points.)~~

~~(b) *Common Building Facilities.* Development of a common building which shall be used for meetings, indoor recreation, day care, or other common uses as approved by the Planning Commission. RV parking facilities may also be considered with this design feature. (Up to 20 points.)~~

~~(c) *Park Dedication.* Dedication of land for public park, public access along a stream, or public access along a planned trail. The City must be willing to accept the proposed dedication before points are awarded. (Public access up to 15 points. Public park up to 40 points.)~~

~~(d) *Construction of Trail or Park.* Construction according to City standards of trail or park which has been dedicated to the City according to item number (c) above. (Trail 15 points, public park 40 points.)~~

~~(6) *Landscaping.*~~

~~(a) *Extra Trees.* Design and planting more than the minimum number of trees, shrubs, and perennials per dwelling unit in the development. (Up to 20 points.)~~

~~(b) *Soften Fence Appearance.* Areas which are to be screened use a solid non-see-through wood or masonry fence and landscaping which acts to soften the appearance of the fence. Landscaping may be vines, shrubs, or trees. (Up to 15 points.)~~

~~(7) *Open Green Space.*~~

~~(a) *Designed Plan.* Open green space is designed (not left over space between buildings) and flows uninterrupted through the entire development linking dwellings and recreation amenities. (Up to 25 points.)~~

~~(b) *Multiple Use.* Storm water detention facilities are designed and used for multiple purposes which blend with the overall theme of the open space design i.e., shape of the area is free flowing, the grading and landscaping are carried out in such a manner that the use as a detention pond is not discernible. (Up to 20 points.)~~

~~(8) *Public Streets.* All streets within the development are dedicated public streets, or at least built to public street standards. (Up to 25 points.)~~

14.31.~~130~~110

Concept Plan Approval.

Concurrent with any request to rezone property to the Performance Development Overlay Zone, and prior to final plan approval, a concept plan which meets the requirements of Section 15.03.300, Provo City Code, shall be submitted to the Provo City Planning Commission.

14.31.~~140~~120

Final Project Plan Approval.

Prior to the construction of any building or structure in the PD zone, a final project plan shall be submitted and approved that meets the requirements of Section 15.03.310, Provo City Code. Said plan may be submitted in units or phases, provided each such phase can exist as a separate entity capable of independently meeting all of the requirements and standards of this Chapter and of the underlying zone with which the PD zone has been combined. The separate development of said phases shall not be detrimental to the performance development nor to the adjacent properties in the event that the remainder of the project is not completed.

Proposed Language

14.31.~~150~~130

Guarantees and Covenants.

(1) Adequate guarantees shall be provided for permanent retention and maintenance of all open space areas created within a performance development. The Chief Building ~~Inspector~~Official shall not issue a ~~final inspection clearance~~Certificate of Occupancy until all required guarantees have been submitted to and approved by the Planning Commission. Said open space guarantees may include the following:

(a) The City may require the developer to furnish and record protective covenants which will guarantee the retention of the open land area, or the City may require the creation of a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.

(b) The developer shall be required to develop and provide for the maintenance of all open space, unless part of or all of it is contiguous to and is made a part of an existing park, and the City Parks Department accepts dedication and approves the annexation of the property to said park.

(c) In the case of private reservation, the open space to be reserved shall be protected against building development by conveying to the City as part of the condition of project approval, an open space easement over such open areas, restricting the area against any future building or use, except as approved on the project plan.

(d) The care and maintenance of the area within such open space reservation shall be insured by the developer by establishing a private association or corporation responsible for such maintenance which shall levy the cost thereof as an assessment on the property owners within the performance development. Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the final plan approval.

(e) Maintenance of open space reservations shall be managed by person, partnership, or corporate entity in which there is adequate expertise and experience in property management to assure that said maintenance is accomplished efficiently and at a high standard of quality.

(f) Minor changes in the location, siting, and height of buildings and structures may be authorized by ~~the Planning Commission~~staff without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this Subsection may cause any of the following:

(i) A change in the use or character of the development;

(ii) An increase in overall coverage of structures;

(iii) An increase in the intensity of use;

(iv) An increase in the problems of traffic circulation and public utilities;

(v) A reduction in approved open space;

(vi) A reduction of off-street parking and loading space;

(vii) A reduction in required pavement widths.

(g) All other changes in use, or rearrangement of lots, blocks, and building tracts, or any changes in the provision of common open spaces and changes other than listed above, must be made by the Municipal Council after report of the planning staff and recommendation by the Planning Commission.

(2) In order to insure that the performance development will be constructed to completion in an acceptable manner, the applicant (owner) shall post a performance bond in compliance with City bonding policy.

(3) The applicant (owner) of any performance development which is being developed as a condominium project under the provisions of the Condominium Ownership Act of Utah, or subsequent amendments thereto, shall, prior to the conveyance of any unit, submit to the Planning Commission a declaration of covenants, conditions, and restrictions relating to the project, which shall become part of the final development plan and shall be recorded to run with the land. Said covenants, conditions, and restrictions shall include management policies which shall set forth the quality of maintenance that will be performed and who is to be responsible for said maintenance within said condominium development. Said document shall, as a minimum, contain the following:

Proposed Language

(a) Provisions for the type of occupancy (family or baching singles) as determined by the amount of provided parking and by the underlying zone.

(b) The establishment of a private association or corporation responsible for all maintenance, which shall levy the cost thereof as an assessment to each unit owner within the condominium development.

(c) The establishment of a management committee, with provisions setting forth the number of persons constituting the committee, the method of selection, and the powers and duties of said committee; and including the person, partnership, or corporation with property management expertise and experience who shall be designated to manage the maintenance of the common areas and facilities in an efficient and quality manner.

(d) The method of calling a meeting of the members of the corporation or association with the members thereof that will constitute a quorum authorized to transact business.

(e) The method for maintenance, repair, and replacement of common areas and facilities, and distribution of costs thereof.

(f) The method for maintenance of all private streets and private utilities and acknowledgment that such maintenance is the responsibility of the homeowners corporation or association.

(g) The manner of collection from unit owners for their share of common expenses, and the method of assessment.

(h) Provisions as to percentage of votes by unit owners which shall be necessary to determine whether to rebuild, repair, restore, or sell property in the event of damage or destruction of all part of the project.

(i) The method and procedure by which the declaration may be amended: the declaration required herein, any amendment, and any instrument affecting the property or any unit therein shall be approved by the Planning Commission and recorded with the County Recorder. Neither the declaration nor any amendment thereto shall be valid until approved and recorded. Said declaration and amendments thereto shall be maintained as part of the project plan for the performance development.

(4) In case of failure or neglect to comply with any and all of the conditions and regulations herein established, and as specifically made applicable to a performance development, the building inspector shall not issue a certificate of zoning compliance therefore. 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 or approval thereafter shall also be deemed to be a violation of this Chapter.

(5) Streets not constructed to City width standards shall be noted in a required covenant. Such streets ~~cannot~~can only be dedicated ~~unless brought up to City standards~~in compliance with Chapter 15.23, Provo City Code. The Municipal Council may vote to remove the property from the Performance Development Overlay Zone and deny the project plan, if the plan for the property is found to be out of character with the neighborhood; if, in the interest of promoting the general health, safety and welfare, the changed project plan should be denied; or if implementation of the new project plan would hinder or obstruct the attainment of policies established in the General Plan.

~~**14.31.160**~~

~~**Fees.**~~

~~Fees shall be charged to offset a portion of the costs incurred by the City in reviewing and processing project plans, pertaining to the PD (Performance Development) zone. Those fees shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

14.31.~~170~~140

Appendix.

(1) *Land Use Conflicts.* The matrix indicates the conflicts that are presumed to exist between land uses. The types of mitigation measures listed in the following Sections are the design tools that may be employed either separately or in combination to mitigate existing or potential land use conflicts. Minimum Performance Standards require that such conflicts be mitigated as a condition for approval of the development plan.

(a) Land Use Conflict Mitigation Measures

Proposed Language

(i) *Open Space Setbacks.* By providing an open space buffer between conflicting land uses, conflicts can often be avoided. The width of the buffer required will depend on the extent of landscaping. To work effectively, the ownership, use, and maintenance of the open space buffer must be clearly defined.

(ii) *Landscaping and Topographic Changes.* As part of an open space buffer or as a treatment of land immediately adjacent to buildings, landscaping can be used to reduce conflicts.

(A) Dense plantings of evergreens can provide a visual buffer.

(B) Sensitive landscaping can soften the sharp visual contrast between two (2) abutting land uses by subduing the differences in architecture and bulk and by providing a gradual transition rather than a harsh edge between uses.

(C) Dense growth of plants can be visually appealing but also can be inhospitable to unwanted travelers. Such natural screen can discourage unwanted and unsafe pedestrian or bicycle access between land uses.

(D) Good landscaping can help other mitigation measures. It can reduce the width of open space buffer required. It can soften the visual conflict created by safety and security fences.

(E) Recontouring of the land can alter views, subdue sounds, change the sense of proximity, and channel pedestrian travel.

(iii) *Orientation.* The strict spatial proximity between land uses and the apparent or functional proximity can be very different depending on the orientation of buildings and activities of the two (2) land uses.

(A) The buildings themselves can cause a buffer to be created by effectively turning their backs on each other - orienting views, access and principal activities away from the other land use. Care must be taken, however, that a hazardous and unaesthetic "no-mans's land" is not created in the process. Some appropriate use must be given to the intervening space. Alternately, the intervening space can be eliminated altogether if the two (2) buildings share a common back wall. An entire site plan can be oriented so that the activities and functions are aligned

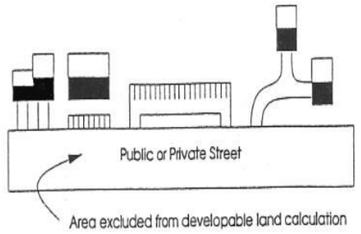
hierarchically - placing those least compatible furthest from the common boundary between land uses and those most compatible near that boundary.

(iv) *Barriers and Alleviation.* It may be appropriate and necessary to use physical barriers to prevent the undesirable attributes of one land use from affecting the people and activities in the adjacent land use. Fences, walls and berms can prevent the passage of people into areas that would be unsafe or insecure. They can also prevent spillage of materials from one (1) site to another. Noise, light, and odor pollution can be reduced at the point of origin by modifying the normal design of the operations causing the pollution. Light and noise can also be mitigated through physical barriers such as fences, walls, berms, screens and landscaping.

(v) *Architectural Compatibility.* In addition to the architectural considerations involved in mitigation through orientation, the materials, colors, scale, and prominence of buildings in adjacent land uses can be coordinated so there is a gradual transition from one (1) land use to another rather than a sharp and displeasing contrast. Purely aesthetic details that are "tacked" onto a building to cover up land use conflicts, however, will cause more harm than good. The architectural compatibility should rise from a total consideration of the function of each land use and the function of the space between them.

(vi) *Circulation.* Streets and parking areas can often serve to reduce certain types of land use conflicts.

Figure 14.31.070. Density Determination.



~~**Figure 14.31.080(a). Setbacks.**~~

Proposed Language

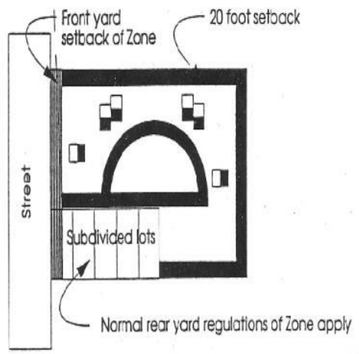


Figure 14.31.080(b). Fence Height.

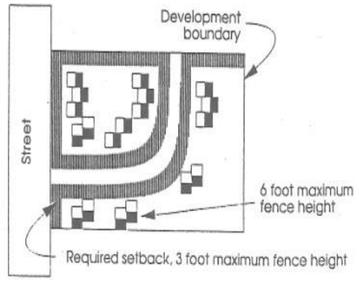
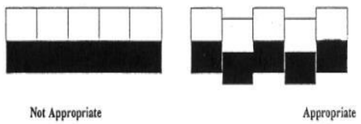
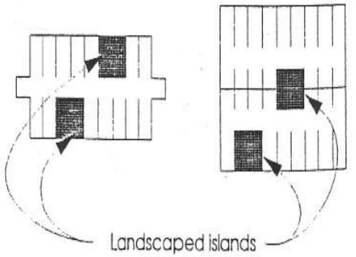


Figure 14.31.080(c). Visual Relief.



~~**Figure 14.31.100. Landscaped Islands.**~~



PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 06-20-2023

SUBJECT: A discussion regarding expanding the tax increment finance agreement with the Noorda College of Osteopathic Medicine. (23-045)

RECOMMENDATION: Review the proposal amendment requested by Noorda-Com for approval at the next available Council Meeting.

BACKGROUND: During the August 22nd Work Meeting, the Board moved to move the target date for the taxation increment agreement to 2023-2043 (from 2021-2032) and that the maximum amount of the tax increment for the Provo Medical School Community Project Area be increased to $37,100,000 (from $1,253,669). In addition, the Council requested a proposal from Noorda regarding penalties for not achieving certain project milestones.

FISCAL IMPACT:

PRESENTER'S NAME: Keith Morey, Asst Director of Development Services

REQUESTED DURATION OF PRESENTATION: 40 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
This project supports Provo City's goal to increase property values, create jobs and diversify our economy.

CITYVIEW OR ISSUE FILE NUMBER: 23-045

RESOLUTION 2023-____.

A RESOLUTION APPROVING THE FIRST AMENDMENT TO AN INTERLOCAL AGREEMENT FOR THE PROVO MEDICAL SCHOOL COMMUNITY REINVESTMENT PROJECT AREA. (23-045)

WHEREAS, it is proposed that the target date for the taxation increment agreement be moved to years 2023-2043 (from 221-2032) and that the maximum amount of the tax increment for The Provo Medical School Community Project Area be increased to $37,100,000 (from $1,253,669) and

WHEREAS, on September 19, 2023, the Municipal Council met to consider the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds that (i) the amendment should be approved as described herein, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, it is resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

The First Amendment to Interlocal Agreement for the Provo Medical School Community Reinvestment Project Area is approved, and the Mayor is authorized to execute the Agreement.

PART II:

This resolution takes effect immediately.

FIRST AMENDMENT TO
INTERLOCAL AGREEMENT FOR THE PROVO MEDICAL SCHOOL
COMMUNITY REINVESTMENT PROJECT AREA

THIS FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR THE PROVO MEDICAL SCHOOL COMMUNITY REINVESTMENT PROJECT AREA (this "**First Amendment**") is intended to amend the terms of that certain Interlocal Agreement for The Provo Medical School Community Reinvestment Project Area, dated February 18, 2020, (the "**Agreement**"), by and between REDEVELOPMENT AGENCY OF PROVO CITY (the "**Agency**"), and PROVO CITY (the "**Taxing Entity**"). Capitalized terms used, but not otherwise defined, in this First Amendment shall have the meaning given to such terms in the Agreement.

RECITALS:

A. WHEREAS, in exchange for the promises, reaffirmations and acknowledgements set forth in this Agreement, the Agency and the Taxing Entity desire to make certain amendments to the terms of the Agreement.

NOW THEREFORE, the Taxing Entity and Agency hereby agree as follows:

1. The text of Section 1.a. of the Agreement is hereby deleted and replaced in its entirety with the following:

> a. Pursuant to the Act and Section 11-13-215 of the Cooperation Act, the Taxing Entity hereby agrees and consents that the Agency shall be paid an amount equal to sixty-three percent (63%) of the Tax Entity's portion of the Tax Increment generated within the Project Area (the "Agency Share"), for the twenty (20) tax years consisting of tax years 2023 through 2042 inclusive (the "Project Area Funds Collection Period"). The Agency Share shall be used for the purposes set forth in the Act and in the Project Area Plan and shall be disbursed as specified herein. The calculation of annual Tax Increment shall be made using the (a) the Taxing Entity's tax levy rate during the year for which Tax Increment is to be paid and (b) the base year value for purposes of calculating Tax Increment shall be the combined assessed value of all property within the Project Area last equalized prior to the effective date of this Agreement, which taxable value is subject to adjustment as required by law.

2. The text of Section 1.e. of the Agreement is hereby deleted and replaced in its entirety with the following:

> e. The total cumulative amount of Agency Share paid to the Agency under this Agreement shall not exceed $37,100,000.00 ("the "**Maximum Amount**").

3. Exhibit A of the Agreement is hereby deleted and replaced in its entirety with the following:

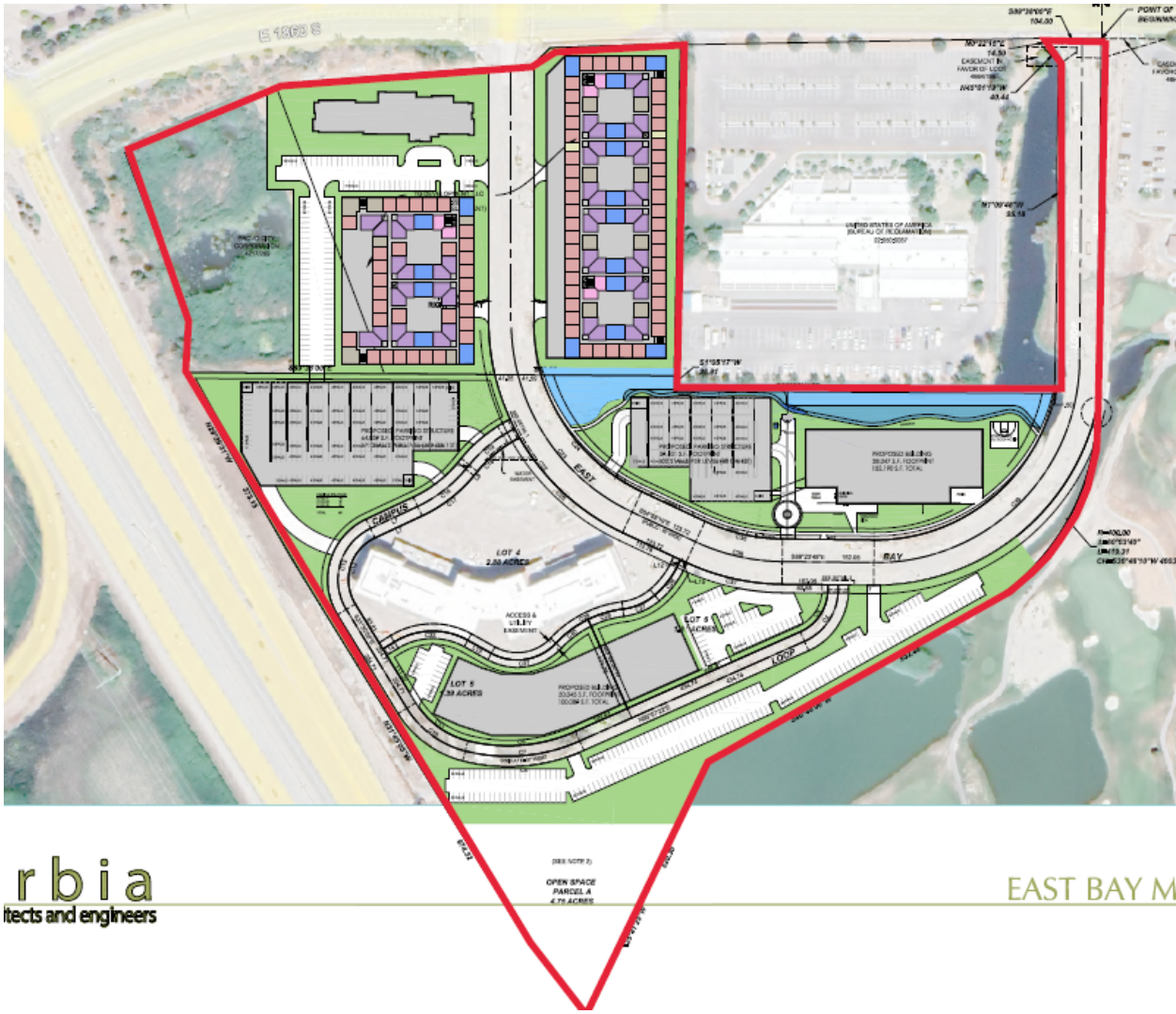
EXHIBIT A

DESCRIPTION AND MAP OF TAX INCREMENT COLLECTION AREA; PROJECT MILESTONES

The Tax Increment Collection Area applicable to this Agreement consists of the following parcels of real property located within the Project Area:

38:672:0004
38:673:0001
38:673:0002
38:672:0005
38:672:0006
38:672:0001
38:672:0002
38:672:0003
38:672:0008
38:672:0009
22:050:0055
38:672:0007
38:673:0003

The following is a map showing the approximate Tax Increment Collection Area:



4. **Project Milestones**: The Project will achieve the following project milestones, unless otherwise waived by the Taxing Entity in its sole and absolute discretion:

a. As of the date five (5) years immediately following the date of this First Amendment, the parking structure of the Project with a minimum capacity of 425 parking spaces will be constructed and completed (the "**First Milestone**").

b. As of the date ten (10) years immediately following the date of this First Amendment, Phase 1 of the residential structure of the Project, comprising a minimum of 321 residential units, will be completed (the "**Second Milestone**").

Failure to Achieve Project Milestones: If the First Milestone is not achieved, then, in such an event, the Maximum Amount will be reduced by $1,400,000 to $35,710,000. If the First Milestone is achieved, but the Second Milestone is not achieved, then, in such an event, the Maximum Amount will be reduced by $5,600,000 to $31,500,000. If both the First and Second

milestones are not achieved, then, in such an event, the Maximum Amount will be reduced by $7,000,000 from $37,100,000 to $30,100,000.

5. Except as expressly amended herein, all definitions, terms and conditions set forth in the Agreement shall remain in full force and effect. The Parties hereby reaffirm their obligations arising out of the Agreement.

6. This First Amendment may be executed in counterparts, all of which taken together shall constitute one agreement binding on all of the parties, notwithstanding that all of the parties are not signatories to the original or the same counterpart.

[Remainder of page intentionally left blank.]

WHEREOF, the parties hereto have executed this First Amendment on the dates set forth below and intend it to be effective as of _____, 2023.

AGENCY:

REDEVELOPMENT AGENCY OF PROVO CITY

Date:_____ By: _____
Name:_____
Title: _____

ATTEST:

Date:_____ By: _____
Name:_____
Title: _____

ATTORNEY REVIEW FOR REDEVELOPMENT AGENCY:
The undersigned, as special counsel for the Redevelopment Agency of Provo City, has reviewed the foregoing First Amendment to the Agreement and finds it to be in proper form and in compliance with applicable state law.

Date:_____ By: _____
Name:_____
Title: _____

TAXING ENTITY:

PROVO CITY

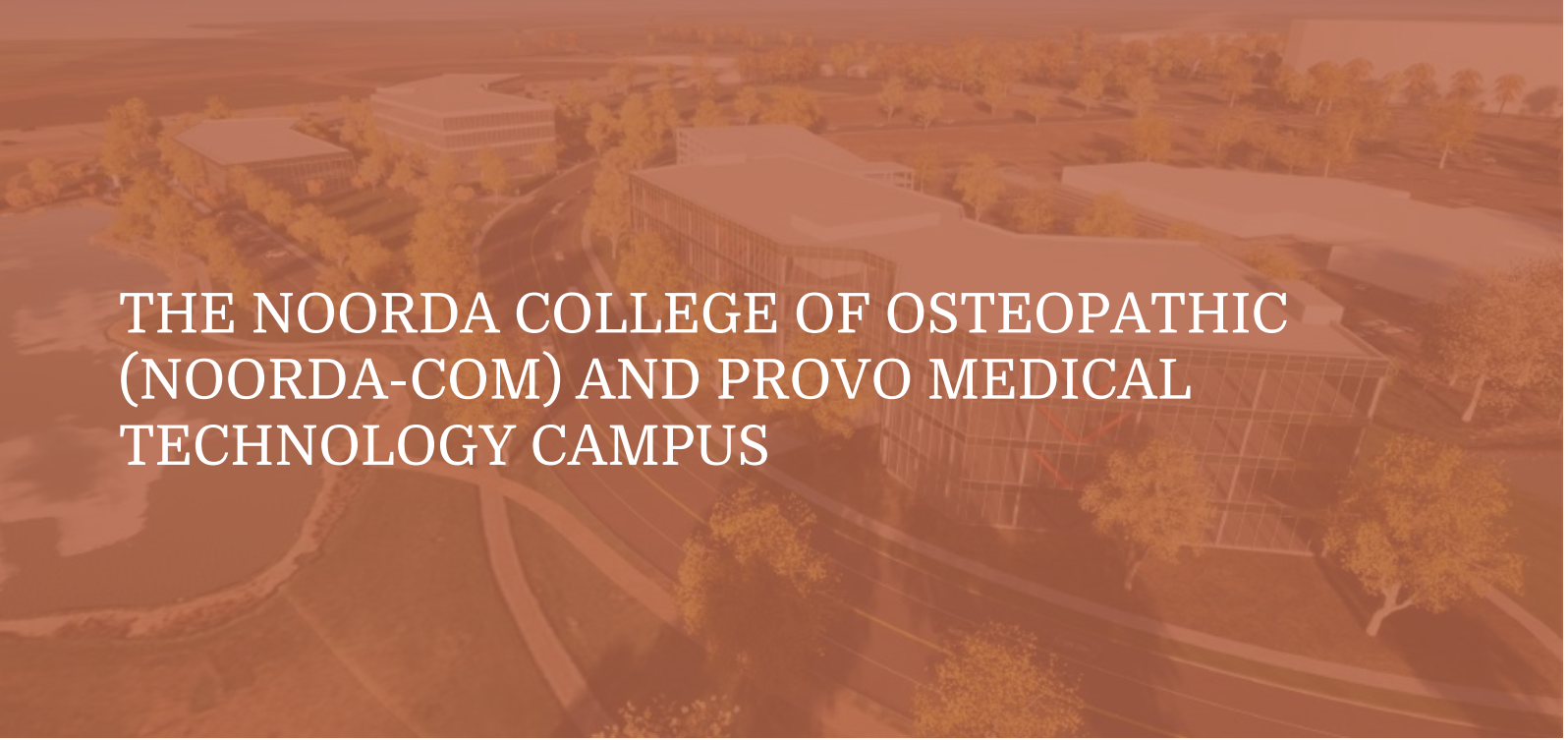
Date:_____ By:_____
Name:_____
Title:_____

ATTEST:

Date:_____ By: _____
Name:_____
Title: _____

ATTORNEY REVIEW FOR PROVO CITY:
The undersigned, as special counsel for Provo City, the Taxing Entity, has reviewed the foregoing First Amendment to the Agreement and finds it to be in proper form and in compliance with applicable state law.

Date:_____ By: _____
Name:_____
Title: _____



THE NOORDA COLLEGE OF OSTEOPATHIC (NOORDA-COM) AND PROVO MEDICAL TECHNOLOGY CAMPUS

NOORDA COLLEGE of OSTEOPATHIC MEDICINE

Comparisons of NCOM building

Noorda **including** NCOM: - first 3 years

	YEAR 1 2023	YEAR 2 2024	YEAR 3 2025
Revenue to Provo City	$ 26,840	$ 27,127	$ 27,417
Additional amount to City	$ 282,705	$ 285,727	$ 288,779
Interest Expense	$ (51,923)	$ (43,759)	$ (35,508)
Total To City	**$ 257,623**	**$ 269,095**	**$ 280,688**

Noorda **excluding** NCOM: - first 3 years

	YEAR 1 2023	YEAR 2 2024	YEAR 3 2025
Revenue to Provo City	$ 107,361	$ 108,509	$ 109,668
Additional amount to City	$ -	$ -	$ -
Interest Expense	$ (60,000)	$ (60,000)	$ (60,000)
Total To City	**$ 47,361**	**$ 48,509**	**$ 49,668**

NOORDA COLLEGE of OSTEOPATHIC MEDICINE

Comparisons of NCOM building

Noorda **including** NCOM: - 20 years

**Total value of campus is $350M*

	YEARS 1-20 2023-2042
Revenue to Provo City	$ 2,899,999
Additional amount to City	$ 2,100,000
Interest Expense	$ (135,920)
Total To City	**$4,864,078**

Noorda **excluding** NCOM: - 20 years

**Total value of campus is $211M*

	YEARS 1-20 2023-2042
Revenue to Provo City	$ 3,167,295
Additional amount to City	$ 2,100,000
Interest Expense	$ (375,269)
Total To City	**$4,892,026**

Comparisons of NCOM building

Noorda **including** NCOM: - 20 years

**Total value of campus is $350M*

	YEARS 1-20 2023-2042
Revenue to Provo City	$ 2,899,999
Additional amount to City	$ 2,100,000
Interest Expense	$ (135,920)
Total To City	**$4,864,078**

Noorda **excluding** NCOM: - 20 years

**Total value of campus is $350M*

	YEARS 1-20 2023-2042
Revenue to Provo City	$ 4,369,498
Additional amount to City	$ 2,100,000
Interest Expense	$ (326,908)
Total To City	**$6,142,590**

NOORDA COLLEGE of OSTEOPATHIC MEDICINE

1. What is the amount of the inter-fund loan (for the golf course) that Dixon mentioned could be paid off sooner by including the completed building?
$2.1 Million
2. How much sooner would that inter-fund loan be paid off if we added the building that is already completed into the TIF.
If NCOM is included in the TIF AND the rest of the campus is built out by 2027, the $2.1M loan will be paid back by 2027. The sooner other buildings get built on the campus the sooner the inter-fund loan will be paid back. If NCOM is included in the TIF, the city would receive an additional $260k per year starting this year (2023) for the next 3 years, then when the additional buildings come on, the city would receive around $1 million in year 4 (2026), and the balance of the loan would be paid back by 2027.
If NCOM is not included in the TIF, the city would still eventually get paid back the $2.1M, it would just be delayed until other buildings are completed. The payback would likely be completed by 2030-2035.

Noorda **including** NCOM: - first 3 years

	YEAR 1 2023	YEAR 2 2024	YEAR 3 2025
Revenue to Provo City	$ 26,840	$ 27,127	$ 27,417
Additional amount to City	$ 282,705	$ 285,727	$ 288,779
Interest Expense	$ (51,923)	$ (43,759)	$ (35,508)
Total To City	**$ 257,623**	**$ 269,095**	**$ 280,688**

Noorda **excluding** NCOM: - first 3 years

	YEAR 1 2023	YEAR 2 2024	YEAR 3 2025
Revenue to Provo City	$ 107,361	$ 108,509	$ 109,668
Additional amount to City	$ -	$ -	$ -
Interest Expense	$ (60,000)	$ (60,000)	$ (60,000)
Total To City	**$ 47,361**	**$ 48,509**	**$ 49,668**

3. If we add the completed building, what is the estimated tax revenue that the City would be "giving up" specifically for that building over the 20 years if it were add to the TIF?
Assuming the total value of the campus ends up being $350 million regardless of if NCOM is included in the TIF or not, the amount the city would be "*giving up*" would be around $1.2 million in exchange for getting money back sooner.

Noorda **including** NCOM: - 20 years
**Total value of campus is $350M*

	YEARS 1-20 2023-2042
Revenue to Provo City	$ 2,899,999
Additional amount to City	$ 2,100,000
Interest Expense	$ (135,920)
Total To City	**$4,864,078**

Noorda **excluding** NCOM: - 20 years
**Total value of campus is $350M*

	YEARS 1-20 2023-2042
Revenue to Provo City	$ 4,369,498
Additional amount to City	$ 2,100,000
Interest Expense	$ (326,908)
Total To City	**$6,142,590**

4. For the Noorda project as a whole, if the RDA kept the existing TIF agreement at 12 years and didn't extend it to 20 years and didn't expand the project area, how much additional estimated tax revenue would the City capture by not giving TIF for the additional 8 years?

I believe the question being asked is how much annual tax revenue will Provo City receive after the 12-year TIF period expires. This would be the annual amount the city would be "*giving up"* by extending the TIF period beyond 12 years.

In order to answer that question, a couple things need to be clarified…

First, the clock on the existing 12-year TIF does not start until phase 1 of the apartments has been completed. The very earliest that clock could start would be at least 2026 or 2027, but could be much later, and there's a chance it may never start (highly unlikely). The most likely completion date of phase 1 of the apartments is 2027. So, a 12-year TIF that begins in 2027 would expire in 2038, with full tax revenue to be paid to the city by 2039.

Second, the question assumes no change to the current existing TIF which has a valuation of $38M. At a $28M valuation, the tax revenue to Provo City after the 12-year TIF expires would be around $75k. If the developer, in partnership with the city, is able to increase the assumed valuation of the current project area with the construction of the apartments from $38M to $150M, then the amount of tax revenue to Provo City after the 12-year TIF expires increases from $75k annually to $310K annually.

The second part of the question asks about how much money the city would be "*giving up"* over 8 years if the TIF is extended from 12 years to 20 years. This is not correct because the clock on the 12-year TIF does not start until phase 1 of the apartments is built, whereas the clock on a 20-year TIF that includes NCOM, would start immediately. If phase 1 of the apartments can be built by 2027 (no guarantee), then the 12-year TIF would expire by 2038 compared to a 20-year TIF that starts 4 years earlier and would expire only 4 years after the 12-year TIF, not 8 years later. So, the question should be asking how much money the city would be "*giving up"* over 4 years if the TIF is extended from 12 years to 20 years.

The answer to that question is, if the developer, with partnership with the city, is successful in creating $150M of value instead of only $38M of value on the project area, then the city would receive around $310k annually after the TIF period expires instead of only $75k. So, $310,000 X 4 years = $1.24M. However, this is assuming the apartments are built by 2027 and the 12-year TIF clocks starts in 2027. What if the apartments aren't built until 2031? In this case the 12-year TIF that starts in 2031 expires at the same time as the 20-

year TIF that starts in 2023, making it so that the city would not be “giving up” anything.

Another way to look at it is if the developer is successful in creating $150M of value on the apartment project area, the city would receive 4 times as much tax revenue than what was originally projected ($75k vs $310K).

Lastly, a TIF for only 12 years is not a viable option. The TIF period needs to be for 20 years for a couple of reasons.

1. The current agreement requires that 75% of the tax increment generated by the project goes back to the city until the $2.1 million inter fund loan is paid back. So, the first 5 years of the TIF period, the majority of the tax increment is going to the city, making a 20-year TIF seem more like a 15-year TIF.
2. Additionally, a longer runway is required in this situation to fund higher costs associated with the landfill. Infrastructure costs are much higher on this site than on a typical site, making a 20-year TIF necessary to attract the medical related tenants to the campus.

5. If the Board approved TIF for the new project area, but didn’t include the completed building, and only offered TIF for 12 years instead of 20, what is the additional tax revenue the City be capturing during those additional 8 years?

This is a similar question to Question #4 above, except the project area is expanded to include the entire campus, minus the NCOM building. The same argument applies in this situation as in question #4 when comparing a 12-year TIF with no definite start date to a 20-year TIF with a definitive start date. If NCOM is included in the TIF, the 20-year TIF would begin immediately. If NCOM is not included in the TIF, then the TIF period would begin at some unknown date in the future (when the next building is complete).

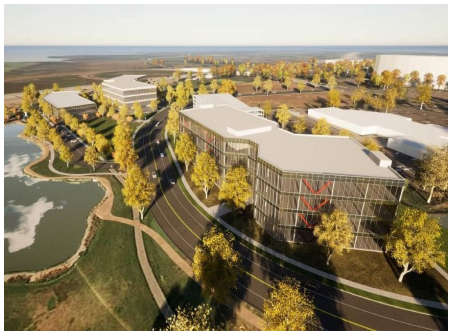
The other item to be considered is the future valuation of the medical school campus is unknown. In partnership with the city, the developer is hopeful to take a property that currently has no value and is not on the tax rolls and create a medical school campus with a valuation in excess of $350M. The greater the value that can be created, the higher the tax revenue the city will receive not only during the TIF period, but especially after the TIF period expires.

Under the following assumptions here is the revenue that Provo City would receive:

- 12-year TIF starting when the next building is complete, which we are assuming to be by 2027. The TIF period would be from 2027-2038.
- TIF area is the entire campus EXCLUDING the NCOM building.
- Value of the campus (not including NCOM) is $250M.

Under these assumptions, tax revenue to the city in the year after the TIF expires would be around $490,000 annually.

A TIF for only 12 years is not a viable option for the same reasons mentioned above in question #4.



Overview:

- Asking for Tax Increment Financing
- The economic costs of constructing on this site have increased due to the removal of thousands of tons of trash as well as the required foundational systems, and the installation of a methane mitigation system to dissipate methane gasses. The initial scope of the project was estimated at **$160 million** but has now increased to over **$400 million**.
- (Asked we accepted the land with the knowledge that we would have to remove the trash. The trash removal cost increased by **$4 million alone**.)



Revenue Created from NCOM with TIF:

  - This will not happen without the TIF
- 20-year Tax Increment Financing, the annual property value dramatically increases from the current $22 million dollars to over $400 million dollars.
- Tax Revenue for Provo City: Current **$41,737 to $203,253**. After the 20-year TIF, annual tax income would be **$797,513**
- Tax Revenue for Utah County: Current **$16,182** to **$141,426.** After the 20-year TIF, annual tax income would be $**309,205**
- Tax Revenue for Provo City School District: **$167,480 to $945,223**. After the 20-year TIF, annual tax income would be **$3,200,190.**

Jobs/Community:

- Not only will the taxable value of the property increase, but the new business activity surrounding the college is projected to generate more than $345 million dollars in annual economic activity, while impacting roughly 8,500 families through direct, indirect and new employment opportunities.

Proposed TIF Structure:

- $35 million/20 year with a 75/25 split on the school district.



	Existing TIF	Proposed TIF
Building Valuation/Development Cost	38,230,500	364,302,452
Buildings included in TIF	East Bay Apartments	East Bay Apartments Medical School (NCOM), Campus (biotech, neurosurgical, hotel, parking garages)
Buildings Square footage	638,000	1,365,000
Timing	12 years	20 years
TIF amount	4,800,000	35,000,000
Tax Revenue to City over TIF period	1,244,710	5,880,000
Tax Revenue to County over TIF period	260,000	2,770,000
Tax Revenue to School District over TIF period	2,700,000	17,200,000
Tax Revenue to CUWCD over TIF period	180,000	900,000

Existing TIF



Proposed TIF



	Existing TIF	Proposed TIF
Building Valuation/Development Cost	38,230,500	364,302,452
Buildings included in TIF	East Bay Apartments	East Bay Apartments Medical School (NCOM), Campus (biotech, neurosurgical, hotel, parking garages)
Buildings Square footage	638,000	1,365,000
Timing	12 years	20 years
TIF amount	4,498,911	35,000,000
Tax Revenue to City over TIF period	2,344,710	5,880,000