



**CLINTON CITY PLANNING COMMISSON  
CITY HALL  
2267 North 1500 W Clinton UT 84015**

**Planning Commission Members**

*Chair – Jacob Briggs*

*Vice Chair – Bob Buckles*

*Tony Thompson*

*Dave Coombs*

*Jolene Cressall*

*Jeff Ritchie*

*Andy Hale*

<b>Date of Meeting</b>	<b>September 20, 2016</b>	<b>Call to Order</b>	<b>7:00 p.m.</b>
<b>Staff Present</b>	Community Development Director Will Wright and Lisa Titensor recorded the minutes.		
<b>Citizens Present</b>	David Thurgood, Bruce Nilson, Lindsay Hamblin		
<b>Pledge of Allegiance</b>	Commissioner Ritchie		
<b>Prayer or Thought</b>	Commissioner Coombs		
<b>Roll Call &amp; Attendance</b>	Present were: Commissioners’ Dave Coombs, Jolene Cressall, Andy Hale, Tony Thompson, and Jacob Briggs  Commissioner Briggs arrived at 8:06 p.m.  Commissioner Buckles was excused.		
<b>City Council Report</b>	Mr. Wright reported on the September 13, 2016 City Council meeting as recorded in the minutes.		
<b>Declaration of Conflicts</b>	There were none.		
<b>Approval of Minutes</b>	<b>Commissioner Coombs moved to approve the September 6, 2016 Planning Commission minutes. Commissioner Hale seconded the motion. Commissioners’ Coombs, Cressall, Hale and Ritchie voted in favor of the motion. Commissioner Thompson abstained because he was not present.</b>		
<b>7:05 P.M PUBLIC HEARING - REQUEST FROM DANIEL THURGOOD, VERIZON WIRELESS, FOR A SITE PLAN REVIEW TO INSTALL AN ANTENNA ON THE ROOFTOP OF WALMART, ALONG WITH AN EQUIPMENT AREA NEXT TO THE BUILDING TO OPERATE THE ANTENNA. PROJECT LOCATION IS 1632 NORTH 2000 WEST, CLINTON.</b>			
<b>Petitioner</b>	Daniel Thurgood, representing Verizon Wireless		
<b>Discussion</b>	<p>Verizon Wireless plans to lease two 49 square foot areas at the Clinton Walmart Store. The first 49 square foot area will be located on Walmart’s rooftop to place a ten (10) foot tall antenna. Additionally, Verizon will lease another 49 square foot area behind the plant nursery area across from the auto maintenance shop on the north side of Walmart. The area on the ground will be fenced and contain the equipment that will be used to operate this antenna. Both 49 square foot areas are relatively low key as the antenna is on the rooftop, while the fenced area is behind the plant nursery across from the auto maintenance shop.</p> <p>Verizon provided staff photo simulation pictures showing how these proposed areas will be seen from the side parking lot by the public. Walmart has reviewed these plans and given their approval... Staff also supports these improvements as something the landlord/owner feels is necessary to offer its customers. Further, these two locations are relatively inconspicuous and there appears to be adequate safety measures taken that will protect this equipment, while keeping the general public safe. For these reasons, staff recommends approval of these two sites for the shown improvements at the Clinton Walmart Store.</p> <p>Acting Chair Ritchie opened the public hearing at 7:16 p.m. and with no public comment he closed the</p>		

	public hearing at 7:17 p.m.
<b>CONCLUSION</b>	<b>Commissioner Coombs moved to approve the Site Plan for Verizon Wireless to install a ten (10) foot antenna on the rooftop of Walmart, along with an equipment area next to the building to operate the antenna located on the north side at 1632 North 2000 West, Clinton. Commissioner Cressall seconded the motion. Voting by roll call is as follows: Commissioner Thompson, aye; Commissioner Hale, aye; Commissioner Cressall, aye; Commissioner Ritchie, aye.</b>
<b>7:15 P.M. – REVIEW AND ACTION UPON A REQUEST FROM KYLE AND LINDSAY HAMBLIN, FOR A RECOMMENDATION TO THE CITY COUNCIL TO AMEND THE FINAL PLAT OF THE COUNTRY HOMES SUBDIVISION BY COMBINING AN ADDITIONAL PARCEL TO LOT 13 LOCATED AT 2063 NORTH 2475 WEST, CLINTON.</b>	
<b>Petitioner</b>	Kyle and Lindsay Hamblin, owners
<b>Discussion</b>	<p>Lindsay Hamblin stated she and her husband have owned this property since 2006. They have been paying property tax on two separate parcels. The combined total of the lots is 1/3 acre. They are trying to install an addition on to their home and in order to get approval they would like to combine the lots into one.</p> <p>Mr. Wright explained that lot 13 of the Country Homes Subdivision would be enlarged by combining a small parcel adjacent and west of this lot, thereby amending the Final Plat of this subdivision.</p> <p>Commissioner Ritchie opened the public hearing at 7:26 p.m., with no public comment he closed the public hearing at 7:27 p.m.</p>
<b>CONCLUSION</b>	<b>Councilmember Cressall moved to forward a recommendation for approval of Resolution 13-16 a request from Kyle and Lindsay Hamblin to Amend the Final Plat of the Country Homes Subdivision by combining an additional parcel to lot 13 located at 2063 North 2475 West, Clinton. Commissioner Coombs seconded the motion. Voting by roll call is as follows: Commissioner Thompson, aye; Commissioner Hale, aye; Commissioner Cressall, aye; Commissioner Thompson, aye; Commissioner Ritchie, aye.</b>
<b>7:25 P.M. – REVIEW ORDINANCE 16-02Z A REQUEST TO AMEND THE CLINTON CITY ZONING CODE CHAPTER 26-22 PATIO HOME (PH) ZONE BY ADDING STUCCO AS AN APPROVED BUILDING MATERIAL FOR THE SIDE AND REAR PART OF A HOUSE.</b>	
<b>Petitioner</b>	Bruce Nilson, Nilson Development
<b>Discussion</b>	<p>Mr. Wright provided the following information in the staff report: Bruce Nilson, owner of Nilson Development has requested that stucco be added as an approved building material for the sides and rear areas of homes in the Patio Home (PH) Zone. The Building Official has issued a statement that stucco is an approved building material for houses in other zones and did not express any objection to it being used on patio homes. He did not grade the strength and quality of the various building materials being used for building houses throughout Clinton City or those designated for use in the Patio Home (PH) Zone.</p> <p>Mr. Nilson said many seniors want what is being offered in the PH Zone. They want a big quality home with a small yard. The current ordinance requires only brick or hardy board which may add \$5,000 to \$7,000 to the cost of the home. He said he does not feel that stucco affects the quality of the appearance, it is a superior product.</p> <p>He said surrounding development are allowed to have stucco on all sides. Some seniors have commented to him that they feel they are being discriminated against by not allowing stucco on patio homes which could reduce the cost.</p> <p>He read a definition of stucco as a plaster or cement for covering walls; stucco systems for exterior applications are made of portland cement. A conventional wall system consisting of a scratch and brown coat of porcelain, foam, fiberglass and ethos.</p> <p>Commissioner Ritchie opened the public hearing at 7:42 p.m. With no public comment, the public hearing was closed at 7:47 p.m.</p> <p>Commissioner Cressall said she feels that stucco is acceptable on all sides, however only a limited percentage should be allowed on the front.</p>

	<p>Commissioner Hale said he would support stucco on the sides and back but he is not in favor of it being on the front. He feels the intent of the City Council when passing this ordinance was to allow the higher density based on a requirement of a higher quality development.</p> <p>Commissioner Thompson referenced 28-3-15 (6) of the Zoning Ordinance which describes the conditions for the structures. He said he agrees with Commissioner Hale, allowing the quality and aesthetics are the trade off for higher density. He feels it is important to follow the General Plan guidelines.</p>
<b>CONCLUSION</b>	<p><b>Commissioner Cressall moved to forward a recommendation for approval of Ordinance 16-02Z an amendment to Chapter 22 of the Clinton City Zoning Ordinance 28-22 for the Patio Home (PH) Zone by changing Section 4(6) Aesthetics, Table 22.4.6 Exterior by adding stucco as an approved building material for sides and rear areas of patio houses. Commissioner Thompson seconded the motion. Voting by roll call is as follows: Commissioner Thompson, aye; Commissioner Hale, aye; Commissioner Cressall, aye; Commissioner Thompson, aye; Commissioner Ritchie, aye; Commissioner Briggs, nay.</b></p>
<p>Mr. Nilson asked the Planning Commission for their interpretation of table 22-4-6 regarding landscaping. He explained landscaping is included with the cost of the home but depending on when the home is complete; it may not be able to be installed for several months. He said usually they put the landscaping in escrow to allow occupancy before installation.</p> <p>Commissioner Briggs commented he believes it is intended to protect the interest of the home owner. He believes this is an issue for the City Council to consider.</p>	
<p><b>WORK SESSION: CONSIDER CHAPTER 3 OF THE CITY’S SUBDIVISION ORDINANCE AS WELL AS ANY OTHER CHAPTERS OR SECTIONS OF THIS ORDINANCE. SHOULD START AT SECTION 26-3-6 OF THE SUBDIVISION ORDINANCE.</b></p>	
<b>Petitioner</b>	Community Development
<b>Discussion</b>	<p style="text-align: center;"><b>Chapter 1. General Provisions</b></p> <p>26-1-1 Title                  26-1-2 Policy                  26-1-3 Public Interest                  26-1-4 Purpose                  26-1-5 Availability of Utility Services                  26-1-6 Authority                  26-1-7 Jurisdiction                  26-1-8 Interpretation, Conflict and Severability                  26-1-9 Savings Provision                  26-1-10 Reservations and Repeal                  26-1-11 Amendments                  26-1-12 Variances                  26-1-13 Development Guidelines and Design Standards                  26-1-14 Enforcement, Violations, and Penalties                  26-1-15 Constructive Notice of Time Periods</p> <p><b>26-1-1 Title.</b> In order that land may be subdivided in accordance with the purposes and policies herein, these subdivision regulations are hereby adopted and made effective as of **{the date of this ordinance}. All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under the regulations existing at the time such application was made unless the City Council determines on the record that application of these regulations is necessary to avoid a risk of injury to public health, safety, and general welfare. These regulations shall officially be known, cited, and referred to as the Subdivision Ordinance of Clinton City.</p> <p><b>26-1-2 Policy.</b></p> <p>(1) Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this City. The developer has the duty of compliance with reasonable conditions of this Ordinance</p>

for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

(2) It is declared to be the policy of the city to consider the subdivision of land and any subsequent development of any portion of a subdivided piece or plat as subject to the control of the City pursuant to the General Plan of the City for the orderly, planned, efficient, and economical development of the City.

(3) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, and land shall not be subdivided until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as parks, recreational facilities, transportation facilities, and improvements.

(4) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the General Plan, Master Land Use Map, master infrastructure plans and the capital budget and program of the City, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, the General Plan, Master Land Use Map and land use plan, master infrastructure plans and the capital budget and program of the City.

(5) Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of regulation(s) identified in Section 26-1-4.

**26-1-3 Public Interest.** Any proposed subdivision and its ultimate use shall be in the best interest of the public and shall be in harmony with good neighborhood development of the area concerned, and the subdivider shall present evidence to this effect when requested to do so by the Planning Commission.

**26-1-4 Purpose.** These regulations are adopted for the following purposes:

(1) To protect and provide for the public health, safety, and general welfare of the City.

(2) To guide the future growth and development of the City in accordance with the General Plan.

(3) To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.

(4) To protect the character, the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and nonresidential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development.

(5) To protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.

(6) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, parks, playgrounds, recreation, and other public requirements and facilities.

(7) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.

(8) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land, and to ensure proper

legal descriptions and establishment of survey monuments of subdivided land.

(9) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services though requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.

(10) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the City in order to preserve the integrity, stability, and beauty of the community and the value of the land.

(11) To preserve and/or improve the natural beauty and topography of the City and to ensure appropriate development with regard to these natural features.

(12) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning ordinance of the City.

(13) To ensure that land is subdivided only when subdivisions are necessary to provide for uses of land for which market demand exists and which are in the public interest.

(14) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision.

(15) To provide for safety and security of residents, subdivisions, commercial properties, and traffic by planning, developing, executing and requiring a city wide street lighting and general lighting design and requirement.

**26-1-5 Availability of Utility Services.** No development, nor permit for development, shall be granted, approved, or issued unless the necessary public facilities in the applicable area have been determined to exist and have adequate capacity to accommodate the proposed development and are available or are to be available when the development occurs. The applicable area includes all facilities that directly or indirectly deliver the services to or are impacted by the proposed development. Such a determination is to be made by the Public Works Department based upon the approved infrastructure master plans.

**26-1-6 Authority.**

(1) **City Council.** The City Council is vested with the authority to approve, amend and approve, conditionally approve or disapprove an application for the final plat of a subdivision of land unless specifically excepted by this ordinance. The Board of Zoning Adjustment is the appeal authority to hear and decide appeals from decisions regarding final plats.

(2) **Planning Commission.**

(a) The Planning Commission of ~~Clinton City~~ is vested with the authority to review, approve, conditionally approve, and disapprove applications for the preliminary plats of subdivision of land. The City Council is the appeal authority to hear and decide appeals from decisions regarding preliminary plats.

(b) The Planning Commission is vested with the responsibility to review and make recommendation to the City Council concerning the approval, conditional approval, or disapproval of the final plat of a subdivision of land unless specifically excepted by this ordinance.

(3) **Community Development Director.** The Community Development Director of ~~Clinton City~~ is vested with the authority to:

(a) Review and recommend approval to the Mayor of Clinton City the approval of minor subdivisions of five lots or less which comply with the requirements of Chapter 3.

(b) Review with developers and make recommendation concerning the concepts and

proposals to be utilized in the creation of preliminary plats. The efforts of the Community Development Director are intended to assist developers, however recommendations made by the Community Development Director are not binding upon the Planning Commission or City Council nor are they to imply approval of any development.

(c) Approve amendments to subdivisions that do not include vacating rights-of-way or easements and which comply with the requirements of this Title;

(d) Approve lot line adjustments which comply with the requirements of this Title;

(e) Approve property combinations which comply with the requirements of this Title;

(f) Approve transfers, not to include vacation of rights-of-way and easements which comply with the requirements of this Title; and

(g) Approve a Record of Survey Map which complies with the requirements of this Title.

The Board of Zoning Adjustment is the appeal authority to hear and decide appeals from the above decisions of the Community Development Director.

#### **26-1-7 Jurisdiction.**

(1) **Applicability.** These regulations apply to all subdivisions of land, as defined herein and in Chapter 2, located within the corporate limits of the City or outside the corporate limits as provided by law.

(2) **Means.** No land may be subdivided through the use of any legal description other than with reference to a plat approved by the City Council, in accordance with this Ordinance, except as specifically stated otherwise in this Ordinance.

#### **(3) Issue of Permits.**

(a) The subdivision of any lot or any parcel of land by the use of deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument for the purpose of sale, transfer, lease, or development is prohibited.

(b) No building permit or certificate of occupancy shall be issued, nor shall the City have any obligation to extend utility services to any parcel created in violation of these regulations, for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this Ordinance, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this Ordinance and applicable regulations.

(4) **Requirements.** No land described in this section shall be subdivided or developed until each of the following conditions has ~~occurred~~ been met in accordance with these regulations:

(a) The subdivider or his agent has submitted a conforming ~~sketch plat,~~ preliminary plat and final plat of the subdivision to the Community Development Director as outlined by this ordinance; and

(b) The subdivider or his agent has obtained approval of the preliminary plat when required, and the final plat as outlined by this ordinance; and

(c) The final plat and construction drawings have been approved for construction by the Clinton City Engineer and the construction drawings have been marked "APPROVED FOR CONSTRUCTION" and issued by the Community Development Department; and

(d) The subdivider or his agent has paid fees associated with the subdivision of property and inspection of improvements related to the development of a subdivision as outlined by this ordinance; and

(e) The subdivider has provided to the City documentation from the Davis and Weber Counties Canal Company indicating that all fees associated with the secondary water system have been paid; and

(f) The subdivider or his agent files and causes to have recorded the final plat with the Recorder for Davis County; or the City Council has authorized the subdivider to start

construction prior to recording of the final plat.

**26-1-8 Interpretation, Conflict, and Severability.**

(1) **Interpretation:** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(2) **Public Provisions:** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(3) **Private Provisions:** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the City Council in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

(4) **Severability.** If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, as provided by Utah law, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

**26-1-9 Savings Provision.** These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time or adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

**26-1-10 Reservations and Repeals.** Upon the adoption of these regulations according to law, the Subdivision Regulations of Clinton City adopted April 9, 1985, as amended, are hereby repealed, except to the extent expressly retained in these regulations.

**26-1-11 Amendments.**

(1) **Amendments to the Ordinance.**

This Ordinance may be amended from time to time in accordance with Utah law governing amendments to a land use ordinance, currently found at Utah Code Section 10-9a-503.

**26-1-12 Variances.**

Any person or entity desiring a waiver or modification of the requirements of this Ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Zoning Adjustments for a variance from the terms of the Ordinance. The Board of Zoning Adjustments is bound by Utah law governing variances, currently found at Utah Code Section 10-9a-702, and may

only grant a variance if the application meets the requirements found therein.

**26-1-13 Development Guidelines and Design Standards.** The Community Development Director with the assistance of the City Engineer, or a designee of the City Engineer, is hereby authorized to draft, approve, adopt, and interpret, a set of development guidelines and design standards for subdivision approvals in the City. Such guidelines and standards may be amended from time to time as determined necessary by the Community Development Director and City Engineer. The standards and guidelines shall be based upon reasonable engineering standards and practices. Any appeal from a guideline or design standard imposed by the guidelines and standards, shall be made to the Board of Adjustment, pursuant to Chapter 10 of the Zoning Ordinance of the City of Clinton.

**26-1-14 Enforcement, Violations, and Penalties.**

(1) **General.**

(a) It shall be the duty of the Community Development Director to enforce these requirements and to bring to the attention of the City Attorney or his designated agent any violations of these regulations.

(b) No owner or agent of the owner, of any parcel of the land located in a final plat of a subdivision that has been approved by the Land Use Authority in accordance with the provisions of these regulations may transfer or sell any part of the parcel before the final plat has been recorded with the Davis County Recorder’s Office.

(2) **Inspections.** Appropriate departments of Clinton City shall inspect or cause to be inspected all buildings, streets, cement work, fire hydrants, and water supply, storm water disposal and waste water disposal systems in the course of construction, installation or repair. Excavation for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by Clinton City. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector. Funds held in bond or escrow will not be released for any work that has not been inspected by the appropriate City Department. Fees related to inspections shall be paid by the subdivider, developer or his representative as outlined in the Consolidated Fee Schedule.

(3) **Violations and Penalties.** Any violations of this Ordinance shall be a Class ‘C’ misdemeanor.

Where applicable, each day of noncompliance shall constitute a separate violation.

(4) **Civil Enforcement.** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

**26-1-15 Constructive Notice of Time Periods.** All land owners, subdividers, contractors, developers, or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Ordinance relating to the application, processing and approval or other action relating to the development and subdivision of a project.

Nothing in this Ordinance shall be construed as requiring the City to take any affirmative action to notify land owners, subdividers, developers, owners, builders, or applicants of any time periods and/or deadlines or the effect of noncompliance with said processing requirements set forth in this Ordinance relating to the processing and approval or other action relating to the development and subdivision of a project.

Chapter 3. Subdivision Application Procedure and Approval Process

- 26-3-1 General Procedure
- 26-3-2 Notice of Public Hearing
- 26-3-3 Preliminary Plat

- 26-3-4 Amendments to Preliminary Plat
- 26-3-5 Final Subdivision Plat
- 26-3-6 Vested Rights and Development Agreements
- 26-3-7 Signing and Recordation of Subdivision Plat
- 26-3-8 Suspension and Invalidation of Final Plat

**26-3-1 General Procedure:**

(1) **Classification of Subdivisions:** Before any land is subdivided the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which includes one (1) principal steps for a minor subdivision and two (2) principal steps for a major subdivision:

(a) Minor Subdivision.

(i) Final Subdivision Plat

(b) Major Subdivision.

(i) Preliminary Plat

(ii) Final Subdivision Plat

(2) **Discussion of Requirements:** Before preparing the plat, either ~~sketch~~, preliminary or final for a minor or major subdivision, the applicant shall schedule an appointment and meet with the Community Development Director to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services. The Community Development Director shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. The Community Development Director shall determine whether the development constitutes a minor or major subdivision and notify the applicant of the classification within thirty (30) working days.

(3) **Coordination of Performance Zoning Applications with Subdivision Approval:**

~~(a) It is the intent of these regulations that subdivision review be carried out simultaneously with the review of Performance Zoning applications under the Zoning Ordinance. The plans required for Performance Zone applications shall be submitted in a form to satisfy the requirements of these subdivision regulations and the Zoning Ordinance located in 28-19.~~

~~(b) General Requirement. Whenever the Zoning Ordinance authorizes Performance Zoning applications which permit uses of land and density of buildings and structures based upon development design and the application entails the division of the land, vacant or improved, into two (2) or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any or all other plans, terms, or conditions, including resubdivision or subdivision, approval by the City Council shall be required in addition to all procedures and approvals required in the Zoning Ordinance, whether or not applicable zoning procedures also require City Council approval, review or recommendation. Performance Zoning applications shall include, but not be limited to, all special permits and special uses, performance subdivisions and average density or density zoning projects, and shall apply to all such applications, whether before the City Council, Planning Commission, Community Development Department, or other official or agency of Clinton City.~~

~~(c) Procedure to be followed:~~

~~(i) Preliminary Plat Approval Required. Whenever a Performance Zoning application is submitted which involves a subdivision of land as set forth in these regulations, the application shall be submitted first to the Community Development Director. The application shall be made on the forms required for a preliminary plat review and shall include all information required of a sketch preliminary plat application. The Community Development Director shall then refer the preliminary plat application to the Planning~~

Commission for review. The Planning Commission shall make such reviews of use, site plan approval, landscaping, density, and bulk standards as are required under the Performance Zone regulation.

(ii) ~~Referral Back for Administrative Review.~~ After completing its review the Planning Commission shall refer the preliminary plat (when required) with its decision of approval, conditional approval, or disapproval, together with such recommendations and reviews of use, site plan, landscaping, density, and bulk standards as it was required to make under the Performance Zone regulation of the Zoning Ordinance, to the Community Development Director to review the application and recommendations of the Planning Commission. The application shall then be forwarded to the City Council for final plat approval. No building permits or certificates of occupancy shall be issued for the project until the zoning application has been given final approval by the City Council and the final subdivision plat is recorded with the Davis County Recorder's Office.

(d) ~~Resubdivisions of Performance Zone Developments.~~

(i) ~~A Performance Zone development or land use plan may be subdivided or resubdivided for purposes of sale or lease after the project plan has been given final approval and development completed or partially completed where a escrow agreement is established for all improvements not installed.~~

(ii) ~~If the subdivision or resubdivision of a performance zone development will create a new lot line, the applicant shall make application for approval to the Community Development Director for processing as outlined in 3.01.4.c. above.~~

#### **26-3-2 Notice of Public Hearing:**

(1) **Notice:** Notice of City Council, Planning Commission or other meetings, addressing the subdivision of land which require Public Notice, the required notice shall be provided as required by Utah Code 10-9a-205.

(2) **Assumption of Validity of Notice of Hearing:** If no protest of the processing of the public hearing has been received in writing by the Community Development Director within 30 days of the public hearing the notice of public hearing is assumed to have been processed properly.

#### **26-3-4 Preliminary Plat:**

(1) **General:** If the preliminary plat constitutes a ~~minor~~ major subdivision, the Community Development Director shall place the matter on the next available regular meeting agenda of the Planning Commission for formal approval, disapproval or conditional approval of the preliminary plat following a public hearing. The Planning Commission shall provide notice and hold public hearing on the preliminary plat as established in section 26-3-2. Subsequent to an approval or conditional approval by the Planning Commission, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations.

(2) **Phasing Major Subdivision Plats:** Prior to granting preliminary approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more phases and may impose such conditions upon the filing of the phases as it may deem necessary to assure the orderly development of the subdivision. Such phases must contain at least ten percent (10%) of the total number of lots contained in the approved plat.

(3) **Application Procedure and Requirements:** The application for preliminary plat shall:

(a) Be made on forms available at the office of the Community Development Director together with a fee that is set, from time to time and passed in resolution by the City Council;

(b) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet from the subject property, or of that directly opposite the subject property, extending one hundred (100) feet from the street frontage of opposite land, with the names of owners as shown in the County Assessor's files. This information may be shown on a separate current Tax Map reproduction from the County

Recorder's Office showing the subdivision superimposed on the Tax Map.

(c) Be accompanied by a minimum of ~~ten (10)~~ six (6) copies of the existing condition drawings as described in these regulations.

(d) Be accompanied by a minimum of ~~ten (10)~~ six (6) copies of the complete preliminary plat as described in these regulations.

(e) Be accompanied by a minimum of ~~ten (10)~~ six (6) copies of construction plans for the preliminary plat as described in these regulations.

(f) Additional copies of the preliminary plans may be required when dealing with services, districts, or roadways that are not under the control of the City.

(g) Be presented to the Community Development Director a minimum of four (4) weeks prior to a regular meeting of the Planning Commission.

(4) **Public Hearing:** Upon receipt of a formal application for preliminary plat approval and all accompanying material, the Community Development Director shall call a public hearing before the Planning Commission to be held a minimum of four (4) weeks after the date of receipt of the complete application. The Community Development Director shall submit a notice for publication in accordance with 26-3-2.

(5) **Preliminary Approval:** After the Planning Commission has reviewed the preliminary plat and construction plans, the report of the Community Development Director, any municipal recommendations and testimony and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Planning Commission shall, within thirty (30) days approve, conditionally approve, or disapprove the preliminary plat from the date of the public hearing including any adjourned date thereof, is closed. One (1) copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. If the preliminary plat is disapproved by the Planning Commission, the applicant may appeal to the City Council as provided in 26-1-6(2)(a). The applicant shall have 120 days from the date that the preliminary plat is approved by the Planning Commission (or City Council upon appeal) to submit a final subdivision plat, after which time a new preliminary plat must be submitted for approval.

(6) **Standards for Approval of Preliminary Plats:** No preliminary plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:

(a) Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

(b) If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;

(c) All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;

(d) The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state, and local laws and regulations;

(e) The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels;

(f) The subdivider has taken every effort to mitigate the impact of the proposed subdivision of public health, safety, and welfare; and

(g) Before the Planning Commission approves a preliminary plat showing park reservation or land for use by other government or district agency that is proposed to be dedicated to Clinton City, the Planning Commission shall obtain approval of the park or land reservation from the City Council.

(7) **Disapproval on Appropriate Findings:** The Planning Commission is authorized to

disapprove the preliminary plat based on findings even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the General Plan.

(8) **Public Improvements:** The Planning Commission may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat (see 26-3-8). Alternatively, the Planning Commission shall require that the applicant execute a subdivision improvement agreement and provide security for the agreement as provided in Section 4.01.3 (TBD). The Planning Commission shall require the applicant to indicate on the plat all roads and public utility improvements which shall be required to be established or extended, and any other special requirements deemed necessary by the Official Map and the General Plan.

(9) **Effective Period of Preliminary Plat Approval:** All approvals, conditions, and agreements regarding a preliminary plat shall expire one (1) year from the date of preliminary plat approval, by either the Planning Commission or City Council, if required, whichever is later, unless:

(a) The respective final plat, or a phase thereof, has been approved; or

(b) The respective final plat, or a phase thereof, has been submitted to the City, is scheduled for review, and it complies with the City Codes and the preliminary plat approval and requirements.

(c) If done by phases, the developer must continually file for the approval of at least one phase within one year of the most recent plat or phase approval. Said filing must comply with the City Code and the preliminary plat approval and requirements.

(10) **Zoning and Subdivision Regulations:** Every preliminary plat shall conform to existing zoning regulations and subdivision regulations applicable at the time that the proposed preliminary is submitted for the approval of the Planning Commission unless the Planning Commission or City Council has taken official action toward amending the applicable zoning and subdivision regulations and the applicant has reason to know of that action.

(11) **Grading of Site Prior to Final Approval:** Subsequent to preliminary approval the developer may apply for a topsoil and excavation permit from the City or such other agency or person as the City Council shall direct, and upon receipt of the permit may commence construction to the grades and elevations required by the approved preliminary plat.

(12) **Model Homes:** For the purpose of allowing the early construction of model homes in a subdivision, the Planning Commission in its sole discretion may permit a portion of a major subdivision involving no more than two (2) lots to be created in accordance with the procedures for minor subdivisions, provided the portion derives access from an existing city, county, or state roadway, and provided no future road or other improvement is anticipated where the lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the Planning Commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary approval, the model homes may be constructed, subject to such additional requirements as the Planning Commission may require.

**26-3-5 Amendments to Preliminary Plat:** At any time after preliminary plat approval and before submission of a final plat, the applicant may request of the Community Development Director that an amendment be made in the approval or conditional approval of the preliminary plat. The Community Development Director may agree to proposed amendments that are deemed to be minor. If the proposed amendment is major, the Planning Commission shall hold a public hearing on the proposed major amendment in accordance with the same notice requirements found in Section 26-3-2. Any public hearing on a proposed major amendment shall be limited to whether the proposed major amendment should or should not be approved. The Planning Commission shall approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment. If the applicant is unwilling to accept the proposed major amendment under

the terms and conditions required by the Planning Commission, the applicant may withdraw the proposed major amendment. A major amendment shall include, but is not limited to, any amendment that results in or has the effect of decreasing open space in the subdivision by ten percent (10%) or more or increasing density in the subdivision by ten percent (10%) or more. An applicant may not propose more than two (2) major amendments to any preliminary plat. The Planning Commission shall, within thirty (30) days approve, conditionally approve, or disapprove the proposed major amendment from the date of the public hearing including any adjourned date thereof, is closed.

**26-3-6 Final Subdivision Plat:**

(1) **Application Procedure and Requirements:** Following the approval of the preliminary plat the applicant, if he wishing to proceed with the subdivision, shall file with the Planning Commission an application for recommendation to the City Council for approval of a subdivision final plat. The application shall:

- (a) Be made on forms available at the Office of the Community Development Director, together with a fee as set forth in the Consolidated Fee Schedule.
  - (b) Include the entire subdivision, or section thereof, which derives access from an existing state, county, or City street.
  - (c) Be accompanied by a minimum of six (6) copies of the subdivision plat and the construction plans, as described in these regulations.
  - (d) Comply in all respects with the preliminary plat, as approved.
  - (e) Be presented to the Community Development Director at least four (4) weeks prior to a regular meeting of the Commission in order that a public meeting may be scheduled.
  - (f) Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities, parks, and easements, in a form approved by Clinton City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication. The applicant shall deliver a full covenant and warranty deed to all dedicated lands and improvements in proper form for recording, together with a title policy for Clinton City in the sum not less than ten thousand dollars (\$10,000), which sum shall be determined by Clinton City Attorney before signing of the final subdivision plat.
  - (g) Be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to Clinton City Attorney and in an amount established by the City Council upon recommendation of Clinton City Engineer and shall include a provision that the subdivider shall comply with all the terms of the resolution of final subdivision plat approval as determined by the City Council and shall include, but not be limited to, the performance of all required subdivision and offsite improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to Clinton City free and clear of all liens and encumbrances on the premises.
  - (h) Be accompanied by an inspection fee in an amount to be set from time to time by the City Council and published in the Clinton City Consolidated Fee Schedule and by written assurance from the public utility companies and improvement districts that necessary utilities will be installed and proof that the applicant has submitted petitions in writing for the creation or extension of any improvement districts as required by the Planning Commission upon preliminary plat approval. The applicant shall also pay for each street sign required in the subdivision as outlined in the Consolidated Fee Schedule.
- (2) **Planning Commission Action:** The Planning Commission upon review of the application for subdivision shall forward to the City Council a recommendation for approval, approval with conditions or disapproval.
- (3) **Notice of Public Hearing:** Upon recommendation of the Planning Commission the Community Development Director shall call a public hearing before the City Council to be held no later than four (4) weeks after the date of recommendation. The Community Development Director shall submit notice for publication in accordance with 26-3-2.
- (4) **Public Hearing and Determination:** After the date of the public hearing, including any adjourned date thereof, is closed, the City Council shall approve or disapprove the

subdivision application by resolution which shall set forth in detail any reasons for disapproval. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval accompanying the plat.

(5) **Submission and Review:** Subsequent to the resolution of the City Council, six (6) paper copies of the construction plans and plat, and one (1) copy of the original of the subdivision plat on tracing cloth, and/or reproduction Mylar, and one (1) electronic file ~~copy~~ of the subdivision plat and one (1) copy of the subdivision plat on an 11" x 17" paper shall be submitted to the Community Development Director for final review. A check payable to the County ~~Clerk and~~ Recorder in the amount of the current filing fee shall be provided. No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met.

**26-3-7 Vested Rights and Development Agreements:**

(1) **Effect of Approval:** Except as otherwise provided in this Section 3-7, no vested rights shall accrue to the owner or developer of any subdivision by reason of preliminary or final plat approval until the actual signing of the final plat by the Mayor.

(2) **Effect of Recordation:** Except as otherwise provided in this Section 3-7, no vested rights shall accrue to the owner or developer of any subdivision by virtue of the recordation of a final plat.

(3) **Applicable Laws:** To obtain final plat approval, the applicant shall be in compliance with all federal and state laws applicable at the time that the final plat is considered for approval by the City Council. The applicant also shall be in compliance with all local laws and regulations applicable at the time that the preliminary plat was submitted to the Planning Commission in accordance with Section 3-4, except that the applicant shall comply with those local laws and regulations in effect at the time that the final plat is considered for approval by the City Council if the City Council makes a determination on the record that compliance with any of those local laws and regulations is reasonably necessary to protect public health and safety. If the City Council required the applicant to complete public improvements in the subdivision prior to the final plat approval, and the improvements have, in fact, been completed, the applicant may be required to comply with local laws and regulations in effect at the time that the final plat is considered for approval only if the City Council makes a finding on the record that such compliance is necessary to prevent a substantial risk of injury to public health, safety and general welfare.

(4) **Development Agreements:** The City Council is hereby authorized, but under no circumstances is required to, enter into development agreements with individuals and/or entities.

(a) **Requirements:** The City Council may ~~require~~ enter into a development agreement for any development, rehabilitation, reconstruction, or placement of improvements upon any property, for which a permit would be required, for the purpose of:

- (i) Protecting the health, welfare, and safety of the citizenry;
- (ii) Developing or maintaining aesthetics within a neighborhood or district;
- (iii) Addressing proposed projects, and the impacts of such projects, which may not have been contemplated by the Code;
- (iv) Addressing issues of the density of developments when required to balance competing interests;
- (v) Refining uses within the development in furtherance of the general plan when considering neighboring properties;
- (vi) Resolving issues regarding unique features or challenges confronting development;
- (vii) Protecting sensitive lands;
- (viii) Protecting public properties and interests, both tangible and intangible;

- (ix) Clarifying the application of code requirements or City standards;
- (x) Ensuring adherence to the overall intent of the City Code; and
- (xi) For any other purpose consistent herewith; or,
- (xii) When mutually agreed upon with the developer.

(b) **General:** The Development Agreement shall constitute a binding contract between the subdivider of the proposed subdivision and the municipality (the “parties”) and shall contain those terms and conditions agreed to by the parties and those required by this section. The Community Development Director is authorized to negotiate Development Agreements on behalf of the City.

(c) **Covenants:** Any covenant by the municipality contained in the Development Agreement to refrain from exercising any legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period of five (5) years. The covenant shall also contain a provision that the municipality may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.

(d) **Third Party Rights:** Except as otherwise expressly provided in the Development Agreement, the Development Agreement shall create no rights enforceable by any party who/which is not a party to the Development Agreement.

(e) **Limitation on Liability:** The Development Agreement shall contain a clause that any breach of the Development Agreement by the municipality shall give rise only to damages under state contract law and shall not give rise to any liability for violation of the fifth and fourteenth amendments of the U.S. Constitution or similar state constitutional provisions.

(f) **Developer’s Compliance:** The Development Agreement shall include a clause that the City’s duties under the Agreement are expressly conditioned upon the subdivider’s substantial compliance with each and every term, condition, provision, and covenant of the Agreement, all applicable federal, state and local laws and regulations, and its obligations under the subdivision improvement agreement.

(g) **Adoption:** The Development Agreement shall be adopted by the City Council pursuant to applicable state and local laws and shall be recorded in the Recorder’s Office of Davis County.

(h) **Incorporation as Matter of Law:** All clauses, covenants, and provisions required by these regulations to be included in a Development Agreement shall be incorporated into the Development Agreement as a matter of law without respect to the intent of the parties.

### **26-3-8 Signing and Recordation of Subdivision Plat:**

#### **(1) Signing of Plat:**

(a) When a subdivision improvement agreement and security are required, the Mayor shall endorse approval on the final plat after the agreement and security have been approved by the Community Development Director and City Engineer, and all the conditions of the resolution pertaining to the final plat have been satisfied.

(b) When installation of improvement is required prior to recordation of the final plat, the Mayor shall endorse approval on the final plat after all conditions of the resolution have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to Clinton City as shown by a certificate signed by Clinton City Engineer/Public Facilities Inspector and Clinton City Attorney stating that the necessary dedication of public lands and improvements have been accomplished.

(2) **Recordation of Plat:** It shall be the responsibility of the Community Development Director to file the final plat with the County Recorder’s Office within ten (10) days of the date of the last signature on the final plat. Simultaneously with the filing of the final

	<p>plat, the Community Development Director shall record the agreement of dedication together with such legal documents as shall be required to be recorded by Clinton City Attorney.</p> <p><b>26-3-9 Suspension and Invalidation of Final Plat:</b> If the municipality suspends final plat approval for any subdivision plat under these regulations, it shall record a document with the Recorder’s Office for Davis County declaring that final approval for the subdivision is suspended and that the further sale, lease, or development of property within the subdivision is prohibited except that this prohibition shall not apply to persons or parties who have acquired property from the subdivider unless the person or party acquiring property meets the definition of “common ownership” in Chapter 2. If any court of competent jurisdiction invalidates final plat approval for any subdivision, the municipality shall record a document with the Recorder’s Office for Davis County declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited.</p>
<b>Issues &amp; Concerns</b>	There were none.
<b>ADJOURNMENT</b>	<b>Commissioner Briggs moved to adjourn. Commissioner Cressall seconded the motion. Commissioners’ Coombs, Thompson, Cressall, Hale, Ritchie and Briggs voted in favor of the motion., the meeting adjourned at 9:11 p.m.</b>