



## CHAPTER 7<sup>126</sup>

### PLANNED DEVELOPMENT (PRUD/PUD) OVERLAY

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## **7. PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD/PUD) OVERLAY**

### **7.1 PURPOSE AND INTENT**

1. The purpose of the Planned Residential Unit Development (PRUD) or Planned Urban Development (PUD) Overlay is to encourage imaginative and efficient utilization of land 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 Clinton City.

2. A PRUD/PUD is intended to allow for diversification in the relationship of various uses and structures to their sites and to encourage new and imaginative concepts in the design of neighborhood and housing projects in Clinton City.

3. Nothing in this section is intended to imply that the City Council, or Planning Commission are required to allow higher densities than are permitted in the A-1, AE, R-1-15, and R-1-10 Zones.

### **7.2 DESIGN COMPATIBILITY**

The development should be planned as one complex land use with a common architectural design theme that provides variety with architectural compatibility, rather than an aggregation of individual, unrelated buildings located on separate, unrelated lots.

### **7.3 GENERAL PRUD/PUD STANDARDS**

1. Substantial compliance with the Overlay regulations in this Chapter as well as the requirements of other Ordinances in requiring adequate standards related to the public health, safety, and general welfare shall be observed, without unduly inhibiting the advantage of large scale site planning for residential and related purposes.

2. Application for the Overlay does not guarantee the property owner the right to exercise the provisions of this Chapter. Overlays shall be reviewed by the Planning Commission and recommended to the City Council for action based upon the intent, purposes and requirements of the Zoning Ordinance and this Chapter. The City Council may accept, amend

and accept or reject any recommendations from the Planning Commission and/or any plans in total.

### **7.4 FEES AND ASSESSMENTS**

The City Council shall, from time to time establish appropriate fees and assessments for processing of PRUD/PUD's. Fees shall be established by resolution and published in the Clinton City Consolidated Fee Schedule.

### **7.5 DEFINITIONS APPLICABLE TO THIS CHAPTER**

1. **Planned Residential Unit Development (PRUD):** A development constructed on a tract of land under single ownership, planned and developed as an integral unit, and consisting of single-family detached or a combination of single-family detached and attached dwellings as outlined within this ordinance.

2. **Planned Urban Development (PUD):** A development constructed on a tract of land under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses.

3. **Mixed Zones** – requires the presence of the Performance Zone (PZ) along with one or more single family residential zones.

4. **A PRUD or a PUD** is a master planned, architecturally-designed development in which the regulations of the underlying zone, where the development is situated, may be negotiated and modified to allow flexibility and initiative in site and building design and location, in accordance with an approved development plan and requirements of this Chapter. Developments are to have an association or associations, as appropriate, established requiring membership of owners within the development with by-laws outlining the responsibilities and financial obligations of the owners, members, and association.

5. The terms Development and Project are interchangeable with PRUD and PUD and are not intended to modify the definitions of a PRUD or PUD.

## 7.6 USE IN COMBINATION

The Overlay shall be used in combination with existing conventional zones as designated in Chapter 10 of this Ordinance. The Overlay is not intended to be an Established Zone as outlined in Chapter 10 and shall not be applied to a land area as an Established Zone. Property to which the Overlay has been applied shall be developed in conformance with an approved Final Plan.

## 7.7 APPLICABLE ZONES

The Overlay may be combined with the PZ, A, AE, R-1-15, and R-1-10 zones.

## 7.8 CLASSIFICATION OF LAND TO PRUD/PUD OVERLAY

1.Land shall be classified as being in the Overlay pursuant to an amendment to the Zoning Ordinance. Adoption shall be pursuant to the provisions of Chapter 1 of the Zoning Ordinance of the City of Clinton provided, however, in order to classify any land as being in the Overlay the following conditions shall be considered by the Planning Commission and City Council with respect to such land.

- a. That the land is proposed for a project of at least 12 dwelling units; and
- b. That the land has features which are compatible with clustering or other nonstandard development; and
- c. That the land has features which are compatible with the coordination and design of open spaces and with the proposed housing development; and
- d. That the classification is not in conflict with any applicable element of the Clinton City General Plan.

2.The Overlay concept is particularly encouraged when:

- a. The land has unique, valuable, natural, scenic, environmental, and/or manmade features such as wetlands, ridge lines, canyons, slopes, easements, etc.; and
- b. Such land will be better preserved and enhanced by integrated planning and design as a whole, pursuant to the provisions of the Overlay, than under conventional zoning regulations.

3.The standards, guidelines, and criteria to be achieved by the Overlay shall include, but not be limited to the following:

- a. The protection of the public from natural and man made hazards;
- b. The minimizing of the threat and consequential damages of flooding in low lying areas by establishing drainage and detention measures;
- c. The preservation of natural features, wildlife habitat and open space;
- d. The preservation and enhancement of visual and environmental quality by use of natural vegetation and the prohibition of excessive excavation and terracing;
- e. The establishment of traffic circulation facilities that ensure ingress and egress for vehicles including emergency vehicles into all developed areas at any time of the year with minimal cuts, fills, or visible scars;
- f. The encouragement of a variety of development designs and concepts that are compatible with the natural terrain, that will preserve open space and natural landscape;
- g. The establishment of land-use management criteria that will encourage protection of natural elements while allowing a harmonious and satisfying residential environment; and
- h. Determine areas in the City that, due to geologic hazards, may not be suitable for development, or may require engineering measures to reduce the hazards to an acceptable level.

4.Through careful study and detailed analysis, the City Council, upon recommendation of the Planning Commission, may classify certain areas of the City as being in the Overlay in order to ensure that future residential development will be compatible with the sensitive lands, natural, and/or manmade features of the area. Sensitive lands and natural features are outlined in §7.08.2 above.

5.Land included in the Overlay shall be designated on the official zoning map of Clinton City with the symbol “PRUD” or “PUD” following the underlying zoning district designation of such land.

## 7.9 PERMITTED USES

1. Single and multiple family, singly owned units, residential developments containing any type or mixture of housing units are permitted, including, but not limited to clustered development, townhouses, condominiums,
2. Multi Family rental units are only allowed in the Performance Zone (PZ) as part of a PUD outlined elsewhere in this ordinance. Mobile homes, hotels, motels, boarding houses, or other similar transient residential facilities are not permitted.
3. Private recreational facilities for the exclusive use of the occupants and their guests of the planned residential unit development when approved as part of the Final Plan.
4. Public recreational facilities when approved as part of the Final Plan.
5. Uses and conditional uses determined appropriate by the Planning Commission and City Council as established within the underlying zones within the development.
6. Residential, commercial, office and professional service uses in a planned environment. This development shall be referred to as a Planned Urban Development (PUD).

## 7.10 EVALUATION CRITERIA

1. Whether a project proposes residential uses or a mix of residential, commercial and office uses, the Planning Commission and City Council should make the following findings, where applicable, as part of the approved preliminary and final development plan:
  - a. The proposed development will provide a pleasant and attractive environment in which the relationship of land uses is properly planned to assure a harmonious development;
  - b. The proposed development will create no detriment to adjacent properties or to the general area in which it is located; and that it will be in harmony with the characteristics of the community and the existing development in the area; and
  - c. That the proposed development will provide for the efficient utilization of land and that the open space is in reasonable proportion to residential densities and the

atrium or patio houses, detached houses, and twin homes. In the Performance Zone, dwelling units may be clustered in common-wall construction with a maximum of four (4) consecutively attached units. Such units may have no more than two (2) walls in common, with no units above other units.

intensity of office, commercial and professional service uses.

2. In considering non-residential land uses the Planning Commission and City Council shall address the following:

a. Zone. The probable uses established within the existing zones.

b. Size of project.

i. Mixed Zones: The proposed development must propose a minimum of 50 single family residential units and be at least 40 acres in size for the Planning Commission and City Council to consider commercial, office and professional service uses as part of the PUD plan. Commercial, office and professional service uses shall not occupy more than 33% of the project site.

ii. Performance Zone. Development specifically within the Performance Zone shall be limited to a maximum of 60% commercial with a minimum of 20% office and professional areas and a maximum of 20% residential.

c. Buffering. Development of the site shall be that intensity of use is decreased based upon a hierarchy of commercial, office/professional, and then residential with decreasing density.

d. Architecture. The proposed non-residential structures shall comply with the requirements of Chapter 19 of the Zoning Ordinance. Structures shall be complementary to the surrounding and historic architecture in terms of scale, massing, roof shape, exterior materials, etc. New buildings should not create large bulky masses, but should be scaled down into groupings of smaller attached structures.

e. Building Height. Buildings shall meet the requirements of Chapter 19.

f. Parking. Where applicable large expanses of asphalt should be reduced and broken into smaller parking lots. Parking lots should

include ample landscaping to buffer cars from neighboring properties. Guidelines for parking, buffering within parking areas and landscape requirements may be found in Chapters 4 and 19 of the Zoning Ordinance.

g. Access. Adequate vehicular and pedestrian access must be provided. Access from an arterial or collector street to the office and professional service uses must be provided. Access to nonresidential areas shall have minimum impact upon residential sites.

h. Traffic Impact. A traffic impact study shall be required, as part of the Preliminary Plan, to project auto and truck traffic generated by the uses proposed. A registered traffic engineer must prepare the traffic impact study. The traffic study shall include an analysis of on-site circulation, capacities of existing streets, number of additional trips which will be generated, origin/destination studies and peak traffic generation movements.

i. Signage. Signage for the non-residential buildings should be part of a coordinated signage system for the entire project. Signage should help unify the project and provide a positive image. Natural materials such as wood, stone, rock, and metal with external illumination are encouraged. The size and location of signage shall conform to the requirements and guidelines for monument signage from Title 24 of the Clinton City Code of Revised Ordinances.

j. Objectionable Uses. Every use shall be so operated that it does not emit an excessive or dangerous degree of fumes, dust, smoke or other form of air pollution, and heat, glare or radiation beyond any lot on which the use is located. No use shall generate vibration that is perceptible without the use of instruments at any lot line.

k. Noise. Sound shall not be generated to the extent that it is transmitted beyond the lot boundaries to an objectionable degree and offensive to the peace.

i. Title 17, Noise, of the Clinton City Code of Revised Ordinances shall apply to all developments.

ii. Exterior electronic two-way conversation systems may be allowed so long as the volume of such systems shall be maintained at a level that any message or conversation is not intelligible beyond the area being served at any time.

iii. Exterior paging or public address systems, including telephone and music connections, may be allowed so long as the volume of such systems shall be maintained at a level that any paging or public address systems, including telephone and music connections is not intelligible beyond the area being served at any time.

iv. All electrical and mechanical systems installed in any development that is adjacent to a residentially zoned area shall provide a buffer such that the equipment is visually shielded and cannot be heard above the average noise levels in the area from the residential property.

v. All service areas including loading/unloading and garbage or recycled materials pick up shall be located, buffered and operated such that adjacent residential areas will not be disturbed by the use thereof.

l. Lighting. Outdoor lighting should be screened by shields or hoods to prevent glare onto adjacent properties. The intensity of larger fixtures should be reduced by utilizing a larger number of smaller light poles of 12' - 18'. Incandescent lights should be used in smaller pedestrian spaces where quality light is especially important. Exterior lighting installed in the non-residential uses that are adjacent to residential areas, shall submit plans and specifications for approval by the City which meet the following standards:

i. Any light fixture located within thirty-five (35) feet of a residential boundary shall not exceed a height of twenty (20) feet;

ii. Light fixtures located more than thirty-five (35) feet from a residential boundary shall not exceed the maximum height of the main structures in the project, or thirty-five (35) feet, whichever is less;

iii. Shielding of light fixtures shall be provided such that the light source shall not be visible at a height greater than five (5) feet above ground level at any residential property line.

iv. Shielding shall also be provided such that any lighting will not create a hazard to any driver on an adjacent public street;

v. Uplighting (lights at or near ground level used to highlight architecture, landscaping, or signs) or spotlighting shall be focused to the interior of the project site, or at an angle into the air such that no beam of light shall enter onto residential property or into a street so as to create a hazard to any driver;

vi. A site plan showing the lighting pattern of each light, whether mounted on a standard, on the ground, or any structure, shall be submitted with the site plan; and

vii. Recreational facilities requiring lighting may be exempted from the above requirements; however, all such lighting shall be approved as a conditional use.

m. **Buffers.** A buffer between residential and non-residential uses within and adjacent to the project shall meet the minimum requirements of an “H” buffer as outlined in Chapter 19 of the Zoning Ordinance. Buffers between residential and arterial, subarterial and collector streets, as outlined in the Transportation Master Plan shall meet the minimum requirements of a “G” buffer as outlined in Chapter 19 of the Zoning Ordinance. Said buffers may include open space areas, pedestrian trails and landscaped areas and may be counted toward the base open space requirement for the project.

n. The Development is to have amenities, either private or public developed as part of the project and approved during the approval process.

**7.11 APPLICATION OF PRUD/PUD TO UNDERLYING ZONE**

1. Upon combining the Overlay with an appropriate existing zone, variations from the development standards of the underlying zone may be approved by the City Council provided the variations are specifically adopted during the approval of the Final Plans. Variations, however, shall not include changes in the uses allowed by the zone with which the Overlay has been combined.

2. The Planning Commission and City Council may, in the process of approving preliminary or Final Plans, approve the variations from the minimum standards of the underlying zone where there is sufficient evidence that the variations will not adversely affect neighboring property and that the designation standards of Section 7.10 are met.

3. Reduction of setbacks or other open space shall be compensated by providing additional open space in other appropriate areas of the development and shall be in keeping with accepted land use planning principles.

4. **Determining Base Density.** The base residential density of a development shall be calculated utilizing the potential density of the underlying zone as outlined in Table 7.1. If the development is located in more than one residential zone, the total number of units for the project is calculated by adding up the number of units allowed by each zone.

5. When wetlands or other geographic issues could dictate a lower density than the density established in Table 7.1, the Council may require a density analysis, specific to the site to determine the base density for the development. A density analyses is achieved by presenting a sketch plat of the project site laid out as a conventional subdivision based on the applicable zones.

**6. Determining Bonus Density.**

a. The bonus density shall be the sum of the base residential density and the bonus as established utilizing Table 7.2.

b. Residential bonus density factors for the Performance Zone are established in §19.30 of this ordinance.

c. Where Design Options (amenities) are accessible to residents of a specific area of the project any bonus density for those Design Options is to apply only to that specific area.

d. Where a PUD is proposed lands for commercial, office, professional or other nonresidential use shall not be considered as part of the base density. These lands shall be developed within the guidelines and requirements of Chapter 19.

**7. Density Bonus and Incentives.**

a. The inclusion of certain amenities or design options may result in an allowed increase in density, referred to as a density bonus. The total density bonus shall not exceed the Maximum Bonus indicated in Table 7.1 unless the Council reaches an agreement with the Developer under the conditions of Item 8 in Table 7.2 based upon significant findings that cooperation is not designed to counter a detrimental impact upon the citizens of the City.

Table 7.1		
Zone	Base Density	Maximum Density
R-1-10	3.10	20%
R-1-15	2.25	30%
AE	1.50	40%
A-1	0.90	50%

b. The City Council, upon recommendation for approval from the Planning Commission, may determine the density bonus based upon the guidelines set forth in Table 7.2.

c. Development of density bonus features within the site shall not be constructed in the required open space unless allowed in Table 7.2 and approved during the approval process.





Table 7.2	
Design Option	Space Allowed in Open
<p>presence of significant recreation or site amenities, i.e. pool, playground, club house, formal covered picnic areas w/barbeque pits, water features, PAR Course, etc.</p>	Yes
<p>Areas open to the public</p>	Yes
<p>landscaping is one tree and one shrub per residential unit. Trees are to be a mix of canopy, understory and evergreen trees minimum 1 1/2" caliper or 6-foot</p>	Yes
<p>Enhancements to the provisions of required tenant parking with the following:</p>	
<p>Third car garage (1% bonus for each 25% of units w/amenity)</p>	
<p>included in the covenants from becoming a location of storage of inoperative, dilapidated, or otherwise undesirable storage. Site is to be fenced and shielded with vegetation within the development.</p>	
<p>adjacent to each residential unit, minimum size 10'X20' located behind the front of the house within a fenced area (1% bonus for each 25% of units w/amenity)</p>	
<p>significant durability, low maintenance and aesthetic value (e.g. brick, stone). Minimum requirement; one-half of total exterior wall area shall have such exterior materials (e.g. stone, brick)</p>	

<b>Table 7.2 (cont.)</b>	
<b>Design Option</b>	<b>Allowed in Open Space</b>
Increase in the minimum required square footage for each dwelling unit footprint, (minimum 1,400 square foot dwelling unit footprint).	
Creation of pedestrian, bicycle, and/or other recreational trails that are separated from vehicular traffic, both within and outside the project.	
provision of exterior fencing including architecturally designed brick or block fences, wrought iron fences, vinyl fences, and/or, additional landscape buffers, with the enhanced width and landscaping specifications.	
The street cross-section provides a streetscape which allows for more landscaping and better separation of pedestrian and vehicular traffic (beyond the typical public	
special consideration granted due to overall design and desirability of the project. Consideration and findings shall address landscaping, aesthetics, architectural theme, health, safety, and general welfare of the future residents of the project and of the entire city.	
Cooperation with the City in the development of public amenities not located on the project site that are determined to enhance the general conditions of health, safety, welfare, and aesthetics of the City for the citizens.	

**8.**Projects shall provide a minimum open space for use-in-common of residents and/or occupants of such development. The required base open space shall be areas that are not occupied by buildings, required set backs, structures, parking area or streets. The base open space requirement in residential zones is 20%. The base open space requirement for the Performance Zone is established in §19.30 of the Zoning Ordinance.

and maintained by the City unless specifically excluded during the approval process.

**9.**Required “base” open space areas shall be contiguous, not a collection of remnants. Such areas shall include:

a. Area with natural features worthy of preservation, which is not buildable, such as slopes, wetlands, stream or creek corridors, wildlife habitat, geologically sensitive areas, and significant views and vistas. This may be included in the peripheral buffer strip;

b. Open space and landscaped areas which are integrated into the site design of nonresidential uses approved as part of a PUD and which are accessible by the residents of the project.

c. The open space provided shall be integrated into the development and accessible to all residents of the project community via pedestrian corridors or via enhanced pedestrian systems, which minimize the need to cross streets;

d. The open space should be held in common via public ownership or by a homeowner’s association with a permanent open space easement; and

e. The open space should be large enough for the use of all residents of the project or the general public. Such spaces should include improvements such as playgrounds, pathways, pavilions, play courts, ball fields, as well as informal spaces, which encourage the use and enjoyment of the open space. Such areas may include lands, which are unbuildable, such as views and vistas, and areas of significant native vegetation.

**10.**Required “base” open space areas shall not include:

a. The required peripheral buffer strip around the project as outlined in Tables 7.3 and 7.4.

b. Public utility and drainage easements required for infrastructure that will be owned

Table 7.3		Bufferyard Design Against Streets				
		Arterial/Collector/Interior		Development Side		
		Plant Unit Multiplier		-----100 feet-----		Structure Required
		.6/.5/.4		feet35/30/25		None
Required Plant Units/100'		.6/.5/.4		♥♠♦♣♥♠♦♣		
3	Canopy Trees	♥	.5/.4/.3	25/20 feet	♣♣♣♦♣♣♣♥	4 foot high berm
6	Understory trees	♦	.5/.4/.3		♥♣♣♣♣♣♣♥	
9	Shrubs	♣				
6	Evergreens/Conifers	♠	.3/.2/.2	15/10 feet	♥♠♦♣♥♠♣♣	6 foot high decorative fence
		.7/.6/.5			♥♣♣♣♣♣♣♥♠♣♣♣♣♥	
Street Side						

Table 7.4		Bufferyard Design Residential Against Other Development				
		Arterial/Collector/Interior		Commercial/Office/High Density		
		Plant Unit Multiplier		-----100 feet-----		Structure Required
		.5		feet40		None
Required Plant Units/100'		.3		♥♠♦♣♥♠♣♣		
3	Canopy Trees	♥	.4	30 feet	♣♣♣♦♣♣♣♥	4 foot high berm
6	Understory trees	♦	.2		♥♣♣♣♣♣♣♥	
13	Shrubs	♣				
9	Evergreens/Conifers	♠	.3	20 feet	♥♠♦♣♥♠♣♣	6 foot high decorative fence
		.3			♥♣♣♣♣♣♣♥♠♣♣♣♣♥	
Residential Side						

The base open space requirement in any residential zone may be reduced 5% if all of the following conditions are met:

- c.No additional density beyond the base in the zone is requested;
- d.All minimum requirements established in Table 7.2 are met; and
- e.All other aspects of this Chapter are complied with.

**11.**The Planning Commission and City Council shall require the preservation, maintenance and ownership of all open space through one, or a combination of the following:

- a.If accepted by the Council, dedication of the land as a public park or parkway system;
- b.Dedication of the land as permanent open space on the recorded plat with ownership and maintenance being established;
- c.Granted the City a permanent open space easement on the private open spaces to guarantee that the open space remain perpetually in recreation use, with ownership and maintenance being the responsibility of a homeowner's association; or
- d.Through compliance with the provisions of the Condominium Ownership Act as outlined in Title 57 of the Utah Code, which provides for the payment of common expenses for the upkeep of common areas and facilities.
- e.In the event the common open space and other facilities are not maintained in a manner consistent with the approved final development plan, the City may at its option cause such maintenance to be performed and assess the costs to the affected property owners or responsible association.

**12.**Any changes in use, or arrangement of lots, blocks, and building tracts, or any changes in the provision or type of common open spaces must be submitted for review to the Planning Commission for a recommendation to be forwarded to the City Council. The City Council may accept, amend and accept or reject any recommendations from the Planning Commission.

## **7.12 VARIATIONS FROM DEVELOPMENT STANDARDS**

**1.**The Planning Commission and City Council may, in the process of approving conceptual, preliminary, or final development plans, approve

variations from applicable development standards in the underlying zone only if it finds that all of the following conditions are met:

- a.That the granting of the variation will not adversely affect the rights of adjacent landowners or residents;
- b.That the variation desired will not adversely affect the public health, safety or general welfare; and
- c.That the granting of the variation will not be opposed to the general spirit and intent of this Chapter or the General Plan.

## **7.13 STREETS, CIRCULATION AND PARKING**

**1.**The design of public streets within a development shall follow City standards for width of right-of-way and construction as outlined in the Engineering and Standard Specifications and Standard Drawings.

**2.**Engineering of private streets shall follow City standards for construction as outlined in the Engineering and Standard Specifications and Standard Drawings.

**3.**Developers are encouraged to develop public and private streets within the development that enhance the development. Streets that are aesthetically pleasing and that enhance safety through landscaping, lighting, traffic calming techniques, and pedestrian safety enhancements are specifically encouraged.

**4.**All private streets within a development shall be dedicated as public utility easements and all underground improvements shall be constructed per Clinton City standards.

**5.**Points of primary vehicular access to a development shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian and bicycle traffic. Points of intersection between internal and external circulation systems shall be so arranged that both systems function in a safe and efficient manner.

**6.**The required off-street guest parking within the residential portion of a development shall be distributed throughout the development and provide reasonable access to all residential structures within the project.

## **7.14 INFRASTRUCTURE AND UTILITIES**

1. Infrastructure shall be installed as outlined in the Clinton City Engineering and Standard Specifications and Standard Drawings. Deviation may be approved by the Clinton City Council based upon a recommendation from the City Engineer and Planning Commission and upon finding that the alternative design provides a better alternative that is in compliance with the General PRUD/PUD Standards outlined in §7.03.

2. Developers are encouraged to contact the public utilities, gas, power, phone, secondary water, sewer, etc. as soon as practical concerning the design of the development. Letters of commitment from the utilities may be required by the City during the approval process.

#### **7.15 REVIEW PROCESS**

A PRUD/PUD is reviewed in a multi-step process comprised of city staff reviews, conceptual plan review, reviews by the Design Review Committee, Preliminary Plan review, and Final Plan review.

#### **7.16 CITY STAFF CONTACT, DISCUSSION, AND REVIEWS**

Developers are encouraged to contact and work with the City staff throughout all of the phases of a project. Discussions related to concept and intent of the development with the City staff will provide information to which a developer will not normally be aware as well as provide contact information for other agencies that will become stakeholders in the project. Information related to other proposed developments, infrastructure capacities, proposed and recently completed infrastructure projects are only a few of the items that can be gained by working with the staff. This information as well as other will be valuable to the developer in preparing and presenting concept ideas and drawings to the Planning Commission and City Council.

#### **7.17 CONCEPTUAL REVIEW AND CONCEPT PRESENTATION**

1. Conceptual development review is to examine the Concept Plan with respect to such items as estimated density, the number, type, and location of dwelling units; parking and circulation; commercial, office and professional structures; adequacy of services; integration of like uses with and shielding of dissimilar uses from existing uses; as well as other impacts of the proposal on surrounding areas.

2. The conceptual plan shall be submitted to the Community Development Department for review and presentation to the Planning Commission.

Upon review and recommendation from the Planning Commission the City Council may approve, amend and approve or return the concept to the developer for further action.

3. Reviews shall be by Public Hearing before the Planning Commission and City Council in accordance with the Public Hearing requirements established in Chapter 1 of this Code.

4. A conceptual plan shall contain the following items:

- a. A legal description.
  - b. A copy of the City map indicating existing zoning.
  - c. A copy of the City map or a plat indicating proposed land uses.
  - d. A base map indicating existing conditions to include:
    - i. Contour Lines.
    - ii. Existing utilities and infrastructure.
    - iii. Existing structures.
    - iv. Existing streets and access points to the property and adjacent property.
    - v. Existing landscaping and sensitive or special lands.
    - vi. Existing easements.
  - e. A sketch plat indicating general lot configurations, lot area, lot slope, open space and buildable area if applicable.
  - f. Proposed street configuration, centerline slope, and cross section
  - g. Location of anticipated cuts and fills
  - h. Existing land uses adjacent to the proposed development.
  - i. Completed application provided by the Community Development Department.
  - j. Payment of fees.
5. Approval of a conceptual plan shall significantly meet the following findings:
- a. That the proposed development is consistent with the General Plan;
  - b. That the proposed development will provide a more pleasant and attractive living environment than a conventional commercial/residential development

established under the provisions of the underlying zone;

c. That impact of the proposed development upon adjacent properties or to the general area in which it is located can be reasonably mitigated; and that it will be in substantial harmony with the character of existing development in the area;

d. That the project will provide more efficient use of the land and may provide more usable open space to the development residents than a conventional development permitted by the underlying zone;

e. That any variations allowed from the development standards of the underlying zone will not create increased hazards to the health, safety, or general welfare of the residents of the proposed planned residential unit development or adjacent areas; and

f. That the application of a density bonus of up to the amount indicated in Table 7.1 will be compensated by better site design, investment value and/or increased amenities.

6. Conceptual approval will only be granted when there is a reasonable certainty that the development will fulfill the requirements of the general plan, City Code and the City development guidelines and design standards.

#### **7.18 SUBDIVISION CONCURRENT WITH PRUD/PUD APPROVAL**

1. Subdivision approval as outlined in the Subdivision Ordinance may be considered and processed concurrently with the PRUD/PUD review and approval process. Subdivision review shall follow subdivision standards as outlined in the Subdivision Ordinance of Clinton City and the development standards and design guidelines.

2. Public hearings may be accomplished concurrently.

3. Documents required for processing of a subdivision that are duplicated as a requirement of processing a PRUD/PUD will fulfill the requirements of a PRUD/PUD application.

#### **7.19 DESIGN REVIEW COMMITTEE**

1. A Design Review Committee shall be established by the Clinton City Council. The Committee shall be responsible for providing support and recommendations to the staff regarding basic design elements as presented in a Preliminary Plan. The Design Review Committee

may also make recommendations regarding density bonuses based on the design options outlined in Section 7.11.7 of this chapter.

2. The Design Review Committee shall consist of up to: 1 member of the Council; 1 member of the Planning Commission; 1 City Staff member from each of the following departments, Community Development, Public Works, Fire, and Police; the developer; and 1 citizen at large. The Mayor shall appoint the Council member and citizen at large; the Planning Commission Chair shall appoint the commission member.

3. There will be no regular meeting times of the Design Review Committee. The Committee shall meet at such times and places and as often as necessary to review applications with staff.

4. The Design Review Committee may review the design aspects of the conceptual, preliminary and Final Plans of the project. The specific plans, documents and other materials required for review are to be established by the committee and staff and may include but not be limited to those outlined in the Conceptual, Preliminary, and Final plan requirements.

5. The Design Review Committee may review and make comment on all subdivision documents when a subdivision is proposed as part of a development.

6. If a density bonus is proposed, the Design Review Committee shall determine an acceptable density bonus for the project to be recommended to the Planning Commission for consideration. The Planning Commission may accept, amend and accept or reject the recommended density proposal.

#### **7.20 PRELIMINARY REVIEW AND APPROVAL**

1. Based upon the Conceptual Review and recommendations from the Design Review Committee the Preliminary Plan shall be submitted to the Community Development Department for presentation to the Planning Commission and forwarded to the City Council with a recommended action.

2. Preliminary Plans may be submitted to and reviewed for recommendation by the Design Review Committee prior to going to the Planning Commission.

3. Reviews shall be by Public Hearing before the Planning Commission and City Council in accordance with the Public Hearing

requirements established in Chapter 1 of this Code.

4. Preliminary Plans submitted to the Commission and Council shall, as a minimum contain all information presented during the Conceptual Review plus any additional items requested as a result of the Conceptual and the Design Review Committee reviews to include but not be limited to the following information:

a. A written report signed by all members of the Design Review Committee outlining the findings of the Committee;

b. A written commentary from the developer outlining any issues brought out by the Planning Commission or City Council during the Concept Review or the Design Review Committee during the Preliminary Review that are not addressed as part of the Preliminary Plans;

c. A preliminary title search showing legal ownership of the property. If the developer is not the property owner, written proof that said developer has sufficient legal claim on the property, and each parcel therein, or authority to represent its owners, must be provided to proceed with development plans;

d. A complete and accurate legal description of the property that is the subject of the project;

e. An updated base map as described in the Conceptual Review to include requested items from the Review as well as:

i. A field survey plotting the correct locations of all existing site elements, alignments of underground utilities, spot elevations and contours at intervals no greater than two feet (2');

ii. The character and origin of existing landscape as well as the species and caliper of principal vegetation, along with the drainage courses essential to its preservation; and

iii. Where a subdivision is being proposed the Preliminary Plat requirements of the Subdivision Ordinance shall be met.

f. A tabulation of the total acreage of the site and the percentages thereof to be designated for various uses, i.e. parking, residential units, open space, streets, etc.;

g. Proposed circulation pattern including private driveways, public and private streets, and pedestrian and bicycle paths;

h. Parks, common open spaces, playgrounds, school sites, and other public or private recreation facilities and improvements proposed within the project to include a description of the facilities and structures to be included;

i. General locations of all dwellings and other structures in the planned residential unit development, and an indication of proposed population densities and building densities (units per acre), including tables or graphs showing the percentages of each dwelling type proposed;

j. Proposed location of parking, ingress and egress;

k. A general landscaping plan showing what areas are to be landscaped and what types of plants and materials are contemplated;

l. Preliminary elevations or architectural representations for building proposed within the development;

m. Where density bonuses are desired from aesthetic characteristics and size of residential structures provide elevation and floor plan sketches showing increased amenities;

n. If the development is being subdivided, preliminary subdivision plat as outlined in Subdivision ordinance of the City of Clinton;

o. A preliminary utility plan showing the manner in which adequate sewage disposal, storm drainage, and water services are to be provided, including the point from which said services are to be extended or connected;

p. A geotechnical report as outlined in the City Standards;

q. Draft of the Development Agreement as set forth in §7.23; and

r. Any additional information required by the development guidelines and design standards or deemed appropriately necessary by the city engineer, staff, Design Review Committee, Planning Commission or City Council.

5.The Planning Commission may impose such conditions on a Preliminary Plan, as it may deem appropriate to meet the goals and objectives of this Chapter and the General Plan.

6.The Planning Commission recommendation shall be forwarded along with the recommendations of the Design Review Committee to the City Council in a written format outlining all findings and recommended conditions for approval.

## 7.21 GRANTING OF OVERLAY

1.After approval of the Preliminary Plan and based upon the recommendations of the Planning Commission the City Council may grant the application for the Overlay.

2.The Overlay shall be granted by ordinance as a change to the Zoning Ordinance as outlined in Chapter 1.

3.The Ordinance is to specifically outline that the granting of the Overlay is tied to the specific project and not to the land.

4.The Ordinance is to have effective dates and expiration dates in the event that Final Approval is not processed or granted.

5.Granted of the Overlay is not intended to imply or otherwise indicate final approval of the project.

## 7.22 FINAL REVIEW AND APPROVAL

1.After the approval of the Preliminary Plan and prior to the construction of any building or structure in the development, a Final Plan shall be submitted to the Design Review Committee to be forwarded, with recommendations to the Planning Commission. The Planning Commission will review the plan and forward a recommendation to the City Council.

2.Plans may be submitted in phases, provided each phase can exist as a separate project capable of independently meeting all of the requirements of this Chapter the Subdivision Ordinance and the Preliminary Approval. The separate development of said phases shall not be detrimental to the overall project nor to the adjacent properties in the event that the remainder of the project is not completed.

3.Final Plans shall be drawn to scale and shall contain the following information:

a.A written commentary from the developer outlining any issues brought out by the Planning Commission or City Council during

the Concept or Preliminary Review or by the Design Review Committee during the review of the Final Plan that are not addressed as part of the Final Plans;

b.A final title search.

c.All of those requirements designated for submission with Preliminary Plans;

d.A certified survey of the property showing any survey conflicts with adjoining properties, any discrepancies between the survey descriptions and existing fence lines, and overlaps with adjoining property descriptions;

e.A plan for rectifying any land description discrepancies revealed in the survey and a time line for completion, (this action shall be completed before final approval);

f.Tabulations of all dwelling units to be constructed by types and number of bedrooms per unit where specifically addressed in this ordinance;

g.If the development is being subdivided, final subdivision plat as outlined in Subdivision ordinance of the City of Clinton;

h.Detailed development plan with completed dimensions showing precise locations of all buildings and structures, lot or parcel sizes and locations, designations of common open spaces and special use areas, detailed circulation pattern including proposed ownership and typical cross section of streets;

i.Final exterior design for all building types, presented as exterior rendered perspectives or exterior elevations (to include colors and materials);

j.Detailed landscaping plans showing the types and sizes of all plant materials and their locations, decorative materials, recreation equipment, special effects, and sprinkler irrigation systems to include a detailed description of the facilities and structures to be included;

k.Dimensioned parking layout showing location of individual parking stalls and all areas of ingress or egress;

l.Detailed engineering plans showing site grading, street improvements, drainage, and public and private utility locations, and submission of engineering feasibility studies,

stamped by a licensed professional engineer, if required by the City Engineer;

m. Copy of the final draft of the declaration of covenants, conditions, and restrictions, together with open space easements and other bonds, guarantees, or agreements as required herein or, as may have been recommended by the Planning Commission and deemed necessary by the City Council to meet the objectives of this Chapter;

n. Copy of the final draft of the Development Agreement as outlined in §7.23;

o. Dedication of all open space as outlined elsewhere in this ordinance;

p. A time schedule for the completion of landscaping, parking, street improvements and other improvements and amenities which are guaranteed by an escrow as required in the Subdivision Ordinance; and

q. Any additional information required by the development guidelines and design standards or deemed appropriately necessary by the city engineer, staff, Planning Commission or City Council.

4. The City Council, by resolution shall accept, amend and accept, or reject the Final Plan of the development. A separate resolution shall be accomplished when the development includes a subdivision plat in accordance with the Subdivision Ordinance.

### 7.23 DEVELOPMENT AGREEMENT

The City Council is hereby authorized, but under no circumstances is required to, enter into development agreements with individuals and/or entities.

1. Requirements: The City Council may require a development agreement for any project where an Overlay is granted for the purpose of:

a. Protecting the health, welfare, and safety of the citizenry;

b. Developing or maintaining aesthetics within a neighborhood or district;

c. Addressing proposed projects, and the impacts of such projects, which may not have been contemplated by the Code;

d. Addressing issues of the density of developments when required to balance competing interests;

e. Refining uses within the development in furtherance of the general plan when considering neighboring properties;

f. Resolving issues regarding unique features or challenges confronting development;

g. Protecting sensitive lands;

h. Protecting public properties and interests, both tangible and intangible;

i. Clarifying the application of code requirements or City standards;

j. Ensuring adherence to the overall intent of the City Code;

k. Preserving, dedicating or otherwise reserving open space lands;

l. For any other purpose consistent herewith; or,

m. When mutually agreed upon with the developer.

2. General: The Development Agreement shall constitute a binding contract between the developer of the project and the municipality (the "parties") and shall contain those terms and conditions agreed to by the parties and those required by this section as well as other applicable City, County, State and Federal ordinances and laws. The Development Agreement shall outline the conditions of approval developed in the approval process, requirements of this Chapter, the Subdivision Ordinance and other factors pertinent to the preliminary approval. The Community Development Director is authorized to initiate and draft the Development Agreements on behalf of the City.

3. 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 in 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 or is in the interest of the general health, safety and/or welfare of the citizens of the City.

4. 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.

5. 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.

6. 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.

7. Adoption: The Development Agreement may be adopted by the City Council upon recommendation of the Planning Commission and pursuant to applicable federal, state and local laws.

8. 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.

9. Recordation: Upon approval of the Final Plan the developer shall provide that the conditions contained in the Development Agreement shall run with the land and bind all successors, heirs, and assignees of the land contained in the development. When the Development Agreement is adopted by the Council, pursuant to applicable federal, state and local laws, it shall be recorded against all properties in the development in the Recorder's Office of Davis County. Recordation of the Development Agreement shall occur prior to recordation of any plat or other documents related to the development.

**7.24 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS**

1. Before the final plat of the subdivision is signed by the Mayor or recorded with the Davis County

Recorder's Office, all developers shall be required to enter into a Subdivision Improvement Agreement and Subdivision Escrow Agreement in accordance with Chapter 4 of the Subdivision Ordinance of Clinton City.

2. In addition to installation, protection and guarantee of all public improvements as outlined in the Subdivision Ordinance the agreement shall contain the following:

a. Unless otherwise outlined in the Development Agreement, the developer shall covenant to complete all required private improvements to be held in common by the Association no later than two (2) years following the date on which the Council approves the final plat of the development or phase of the development.

b. The developer shall covenant to maintain each required private improvement to be held in common by the Association for a period of two (2) years following the conditional acceptance by the Council.

c. The developer shall warrant that all required private improvements to be held in common by the Association will be free from defect for a period of two (2) years following the conditional acceptance by the Association.

d. The Subdivision Improvement Agreement shall contain such other terms and conditions agreed to by the developer and the Council.

**7.25 TRANSFER FROM DEVELOPER TO ASSOCIATION**

1. Upon completion of all improvements to be held in common and prior to transfer of responsibility for said improvements to the Association the developer shall request the Community Development Director to schedule before the City Council a meeting to review the improvements and hear issues and concerns from the Association.

2. The Community Development Director shall provide public notice as outlined in §1.4.3 of the Zoning Ordinance. The Community Development Director shall request the Public Facilities Inspector to inspect the development for any deficiencies and cause a report of the inspection to be created. The public notice will request that interested parties provide, in writing any issues to be presented to the Council.

**3.** During the hearing the Council will review the plans and development agreement to insure significant compliance with the plans and requirements of the project established during the approval process are accomplished. The Council will allow members of the Association to express concerns and issues related to the improvements to be held in common.

**4.** Upon review and finding that the developer has significantly complied with the requirements of the development agreement and requirements of the project established during the approval process the Council shall start the required two-year guarantee period.

**5.** At the end of the two-year guarantee period and prior to transfer of responsibility for said improvements to the Association the Developer shall again request the Community Development Director to schedule a hearing before the City Council to review the improvements and hear issues and concerns from the Association.

**6.** The Community Development Director shall provide public notice as outlined in §1.4.3 of the Zoning Ordinance. The Community Development Director shall request the Public Facilities Inspector to inspect the development for any deficiencies and cause a report of the inspection to be created. The public notice will request that interested parties provide, in writing any issues to be presented to the Council.

**7.** During the hearing the Council will review the Public Facilities Inspectors report and any written comments provided by interested parties. The Council may allow members of the Association to express concerns and issues related to the improvements to be held in common.

**8.** Upon finding that the project improvements are installed and free of latent defect the Council shall authorize the release of funds being held to guarantee said improvements and at this time the developer may transfer rights and responsibilities to the Association as outlined in the CC&R's of the development. If there is a discrepancy in the improvements, as outlined in the approved plans and/or development agreement the Council may table any action and request the Association and developer resolve any issues prior to rescheduling the issue before the Council. Notification of rescheduled hearings is not necessary.

**9.** Within 30 days of the published hearing or tabled action by the Council which ever is later, in the event the Association and developer can

not agree upon correction of deficiencies the Council will review the issues based upon the development agreement, approved plans, input from the Public Facilities Inspector, staff and if necessary City Engineer and City Attorney. If the Council finds that deficiencies actually exist the Council will direct staff to take action permitted by the Subdivision Improvement Agreement and Subdivision Escrow Agreement to repair any deficiencies.

**10.** This action on the part of the City is to insure that an association is provided an opportunity to be heard and have assurance that the development has been completed as planned. This action does not obligate the City in any way to maintain, upkeep, insure, or otherwise guarantee any private facilities, properties, buildings, landscaping or other improvements held in common or otherwise by a Association, its member or members, assignees or heirs present or future