



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

November 6, 2006

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Tigard Plan Amendment
DLCD File Number 003-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: November 17, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Stacy Humphrey, DLCD Regional Representative
Sean Farrelly, City of Tigard

<paa> ya/

FORM 2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DEPT OF

OCT 30 2006

LAND CONSERVATION
AND DEVELOPMENT Only

Jurisdiction: City of Tigard Local file number: DCA2006-00003

Date of Adoption: October 24, 2006 Date Mailed: October 27, 2006

Date original Notice of Proposed Amendment was mailed to DLCD: August 2, 2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The applicant is requesting approval of a Development Code Amendment to change the procedures and approval criteria for Planned Developments (Chapter 18.350) and add Definitions in Chapter 18.120. The proposed changes to Chapter 18.350 include a new purpose statement, and a new approval process and approval criteria. Related definitions of "density bonus", "landscaping", and open space facility" would be added to the Definitions Chapter (18.120).

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Revised the definition of "Minimal Use Facilities", changed wording of several sections, deleted one concept plan approval criteria, and deleted one detailed development plan approval criteria.

Plan Map Changed from: N/A to: N/A

Zone Map Changed from: N/A to: N/A

Location: Citywide Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 1 & 2

Was and Exception Adopted? YES NO

DLCD File No.: 003-06
(15432)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing? Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

City of Tigard

Local Contact: Sean Farrelly Phone: (503) 639-4171 Extension: 2420

Address: 13125 SW Hall Boulevard City: Tigard, Oregon

Zip Code + 4: 97223-8189 Email Address: sean@tigard-or.gov

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

COPIES TO:

Metro Land Use & Planning
600 NE Grand Avenue
Portland, OR 97232-2736

ODOT - Region 1, District 2-A
Sam Hunaidi, Assistant District Manager
6000 SW Raab Road
Portland, OR 97221

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to mara.ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 06-16

AN ORDINANCE AMENDING THE LANGUAGE OF THE TIGARD COMMUNITY DEVELOPMENT CODE, CHAPTERS 18.120 AND 18.350, TO CREATE A NEW PURPOSE STATEMENT, APPROVAL PROCESS, APPROVAL CRITERIA, AND OTHER REVISIONS FOR PLANNED DEVELOPMENTS AND TO ADD RELATED DEFINITIONS.
(DCA 2006-00003) AS AMENDED

WHEREAS, the applicant has requested an amendment to the Tigard Community Development Code Chapters 18.120 and 18.350, to create a new purpose statement, approval process, approval criteria and other revisions for Planned Developments; and

WHEREAS, notice was provided to the Department of Land Conservation and Development 45 days prior to the first scheduled public hearing; and

WHEREAS, the Tigard Planning Commission held a public meeting on September 18, 2006, and recommended approval of the proposed amendment (with additional revisions) by motion with a unanimous vote; and

WHEREAS, the Tigard City Council has considered applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City's implementing ordinances; and

~~WHEREAS, the Tigard City Council has found the following to be the only applicable review criteria: Community Development Code Chapters 18.120.030, 18.350, 18.380.020, and 18.390.060; Comprehensive Plan Policies 1, 2, 3 and 6; and Statewide Planning Goals 1 and 2.~~

WHEREAS, the Tigard City Council has determined that the proposed development code amendment is consistent with the applicable review criteria, and that approving the request would be in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

- SECTION 1: The specific text amendments attached as "**EXHIBIT A**" to this Ordinance are hereby adopted and approved by the City Council.
- SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 24th day of October, 2006.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 24th day of October, 2006.

C. A. D.
Craig Dirksen, Mayor

Approved as to form:

Justin V. Kamm
City Attorney

10.24.06
Date

Certified to be a true copy of the Original on file at City of Tigard, City Hall.

By Catherine Wheatley 10.26.06
City Recorder, City of Tigard Date



City of Tigard
DCA 2006-00003
Planned Developments Code Amendment
October 2006

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ – For text to be deleted

[Bold and Italic] – For text to be added

Chapter 18.120
DEFINITIONS

[55. “Density bonus” – Additional dwelling units that can be earned as an incentive for providing undeveloped open space, landscaping, or tree canopy as defined further in this code.]

[87. “Landscaping” – Areas primarily devoted to plantings, trees, shrubs, lawn and other organic ground cover together with other natural or artificial supplements such as water courses, ponds, fountains, decorative lighting, benches, bridges, rock or stone arrangements, pathways, sculptures, trellises and screens.]

[104. Open Space Facility related definitions. Open Space Facilities may be privately or publicly owned:

- a. Minimal Use Facilities. No other improvements (apart from underground utilities and natural and ecological enhancements) are allowed.*
- b. Passive Use Facilities. Areas reserved for medium-impact recreation and education uses related to the functions and values of a natural area that require limited and low impact site improvement, including soft surface trails, raised walkways, pedestrian bridges, seating areas, viewing blinds, observation decks informational signage, drinking fountains, picnic tables, interpretive centers, and other similar facilities. Accommodations for ADA access shall be provided where site considerations permit.*
- c. Active Use Facilities. Areas reserved for high-impact recreation that require a greater degree of site development and/or ground disturbance; such as sports fields, playground equipment, group picnic shelters, swimming pools, hard and soft surface pathways, restrooms, and similar facilities.]*

[Renumber definitions after #55 according to the above amendments]

**Chapter 18.350
PLANNED DEVELOPMENTS**

Sections:

- 18.350.010 Purpose**
- 18.350.020 The Process**
- 18.350.030 Administrative Provisions**
- 18.350.040 Noncompliance: Bond**
- 18.350.050 Applicability in Commercial and Industrial Zones**
- 18.350.060 Allowed Uses**
- 18.350.070 Applicability of the Base Zone Development Standards**
- 18.350.080 Exceptions to Underlying Development Standards**
- 18.350.090 [18.350.040] Conceptual Development Plan Submission Requirements**
[18.350.050 Concept Plan Approval Criteria]
[18.350.060 Detailed Development Plan Submission Requirements]
[18.350.070 Detailed Development Plan Approval Criteria]
- 18.350.100 Approval Criteria**
- 18.350.110 Shared Open Space**

18.350.010 Purpose

A. Purpose. The purposes of the planned development overlay zone are:

- ~~1 To provide a means for creating planned environments through the application of flexible standards, i.e., zero lot lines, narrower streets, and other innovative planning practices which will result in a superior living arrangement;~~
- ~~2 To facilitate the efficient use of land;~~
- ~~3 To promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;~~
- ~~4 To preserve to the greatest extent possible the existing landscape features and amenities through the use of a planning procedure that can relate the type and design of a development to a particular site; and~~
- ~~5 To encourage development that recognizes the relationship between buildings, their use, open space, and accessways and thereby maximizes the opportunities for innovative and diversified living environments.~~

- [1. To provide a means for property development that is consistent with Tigard's Comprehensive Plan through the application of flexible standards which consider and mitigate for the potential impacts to the City; and]*
- [2. To provide such added benefits as increased natural areas or open space in the City, alternative building designs, walkable communities, preservation of significant natural resources, aesthetic appeal, and other types of assets that contribute to the larger community in lieu of strict adherence to many of the rules of the Tigard Community Development Code; and]*

- [3. To achieve unique neighborhoods (by varying the housing styles through architectural accents, use of open space, innovative transportation facilities) which will retain their character and city benefits, while respecting the characteristics of existing neighborhoods through appropriate buffering and lot size transitioning; and]*
- [4. To preserve to the greatest extent possible the existing landscape features and amenities (trees, water resources, ravines, etc.) through the use of a planning procedure (site design and analysis, presentation of alternatives, conceptual review, then detailed review) that can relate the type and design of a development to a particular site; and]*
- [5. To consider an amount of development on a site, within the limits of density requirements, which will balance the interests of the owner, developer, neighbors, and the City; and]*
- [6. To provide a means to better relate the built environment to the natural environment through sustainable and innovative building and public facility construction methods and materials.]*

18.350.020 The Process

A. Applicable in all zones. The planned development designation is an overlay zone applicable to all zones. *[An applicant may elect to develop the project as a planned development, in compliance with the requirements of this chapter, or in the case of a commercial or industrial project, an approval authority may apply the provisions of this chapter as a condition of approving any application for the development.]*

B. Elements of approval process. There are three elements to the planned development approval process, as follows:

- 1— The approval of the planned development overlay zone;
- 2— The approval of the planned development concept plan; and
- 3— The approval of the detailed development plan.

- [1. The approval of the planned development concept plan; and*
- 2. The approval of the detailed development plan.*
- 3. The approval of the planned development overlay zone.]*

C. Decision-making process. ~~A new planned development overlay zone and/or concept plan shall be processed by means of a Type III-PC procedure, as governed by Section 18.390.050, using approval criteria contained in Section 18.350.100. The detailed development plan shall be reviewed by means of a Type II procedure, as governed by 18.390.040, to ensure that it is substantially in compliance with the approved concept development plan. In the case of an existing planned development overlay zone for any other type of application, the application shall be reviewed under the provisions required in the chapters which apply to the particular land use application.~~

- [1. The concept plan shall be processed by means of a Type III-PC procedure, as governed by Section 18.390.050, using approval criteria contained in Section 18.350.050.]*

[2. The detailed development plan shall be reviewed by means of a Type III-PC procedure, as governed by 18.390.050, to ensure that it is substantially in compliance with the approved concept plan.]

[3. The planned development overlay zone will be applied concurrently with the approval of the detailed plan.]

[4. Applicants may choose to submit the concept plan and detailed plan for concurrent review subject to meeting all of the approval criteria for each approval. All applicants are advised that the purpose of separating these applications is to provide them clear direction in developing the detailed plans. Rejection of the concept plan will result in a corresponding rejection of the detailed development plan and overlay zone.]

[5. In the case of an existing planned development overlay zone, once construction of the detailed plan has been completed, subsequent applications conforming to the detailed plan shall be reviewed under the provisions required in the chapter which apply to the particular land use application.]

[6. If the application involves subdivision of land, the applicant may also apply for preliminary plat approval and the applications shall be heard concurrently with the detailed plan.]

~~D. Concurrent overlay zone and conceptual plan applications. The application for the overlay zone and for approval of the conceptual development plan may be heard concurrently if an application for each of the actions is submitted.~~

~~E. Concurrent overlay zone and subdivision applications. If the application involves subdivision of land, the applicant may apply for preliminary plat approval and the applications shall be heard concurrently.~~

[D. Concurrent Applications for Concept Plan and Detailed Plan. In the case of concurrent applications for concept plan and detailed development plan, including subdivision applications, the applicant shall clearly distinguish the concept from the detailed plan. The Planning Commission shall take separate actions on each element of the Planned Development application (i.e. the concept approval must precede the detailed development approval); however each required action may be made at the same hearing.]

18.350.030 Administrative Provisions

[A. Time limit on filing of detailed development plan. The concept plan approval expires after 1-1/2 years unless an application for detailed development plan and, if applicable, a preliminary plat approval or request for extension is filed. Action on the detailed development plan shall be taken by the Planning Commission by means of a Type III-PC procedure, as governed by Section 18.390.050, using approval criteria in 18.350.070.]

~~A. [B.] Zoning map designation. Where a planned development overlay zone has been approved, [The planned development overlay zone application shall be concurrently approved if the~~

detailed development plan is approved by the Planning Commission.] The zoning map shall be amended to indicate the approved planned development designation for the subject development site. The approval of the planned development overlay zone shall not expire.

~~B. Time limit on filing of detailed development plan. Within 1 1/2 years after the date of Commission approval of the conceptual development plan, the owner shall prepare and file with the Director a detailed development plan. Action on the detailed development plan shall be ministerial and taken by the Director by means of a Type II procedure, as governed by Section 18.390.040, using approval criteria below:~~

~~1. The Director shall approve the detailed development plan upon finding that the final plan conforms with the conceptual development plan approved, or approved with conditions by the Commission. The detailed plan shall be approved unless the Director finds:~~

- ~~a. The change increases the residential densities, increases the lot coverage by buildings or reduces the amount of parking;~~
- ~~b. The change reduces the amount of open space and landscaping;~~
- ~~c. The change involves a change in use;~~
- ~~d. The change commits land to development which is environmentally sensitive or subject to a potential hazard; and~~
- ~~e. The change involves a major shift in the location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements.~~

~~2. A decision by the Director may be appealed by the applicant or other affected/approved parties to the Commission and the Commission shall decide whether the detailed development plan substantially conforms to the approved conceptual development plan based on the criteria set forth in Subsection 1 of this section. This appeal shall be governed by provisions of Section 18.390.040G.~~

C. Extension. The Director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

1. No changes have been made on the original conceptual development plan as approved by the Commission;
2. The applicant can show intent of applying for detailed development plan *[or preliminary plat]* review within the one year extension period; and
3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.

D. Phased development.

1. The Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than seven years without reapplying for conceptual development plan review.
2. The criteria for approving a phased detail development plan proposal are that:

- a. The public facilities shall be constructed in conjunction with or prior to each phase; and
- b. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable City or district standard.

E. Substantial modifications to conceptual plan. *[If the Planning Commission finds that the detailed development plan or preliminary plat does not substantially conform to the concept plan, a new concept plan shall be required.]* ~~Substantial modifications made to the approved conceptual development plan shall require a new application.~~

[F. Noncompliance. Noncompliance with an approved detailed development plan shall be a violation of this chapter.]

[G. Issuance of occupancy permits. The development shall be completed in accordance with the approved detailed development plan including landscaping and recreation areas before any occupancy permits are issued. However, when the Director determines that immediate execution of any feature of an approved detailed development plan is impractical due to climatic conditions, unavailability of materials, or other temporary condition, the Director shall, as a precondition of the issuance of a required permit, require the posting of a performance bond or other surety to secure execution of the feature at a time certain not to exceed one year.]

~~18.350.040 Noncompliance: Bond~~

~~A. Noncompliance. Noncompliance with an approved detailed development plan shall be a violation of this chapter.~~

~~B. Issuance of occupancy permits. The development shall be completed in accordance with the approved detailed development plan including landscaping and recreation areas before any occupancy permits are issued. However, when the Director determines that immediate execution of any feature of an approved detailed development plan is impractical due to climatic conditions, unavailability of materials, or other temporary condition, the Director shall, as a precondition of the issuance of a required permit, require the posting of a performance bond or other surety to secure execution of the feature at a time certain not to exceed one year.~~

~~18.350.050 Applicability in Commercial and Industrial Zones~~

~~A. By election. An applicant for a commercial or industrial project may elect to develop the project as a planned development, in compliance with the requirements of this chapter.~~

~~B. As condition of approval in commercial and industrial developments. An approval authority may apply the provisions of this chapter as a condition of approving any application for a commercial or industrial development.~~

~~18.350.060 Allowed Uses~~

~~A. In residential zones. In all residential zones, an applicant with a planned development approval~~

may develop the site to contain a mixture of uses subject to the density provisions of the underlying zone and the density bonus provisions of 18.350.100 B2. The following uses are allowed with planned development approval:

- 1 — All uses allowed outright in the underlying zoning district;
- 2 — Single family detached and attached residential units;
- 3 — Duplex residential units;
- 4 — Multi-family residential units;
- 5 — Manufactured homes;
- 6 — Accessory services and commercial uses directly serving the planned development only and which are customary or associated with, but clearly incidental to, the residential uses permitted in the zone;
- 7 — Community building;
- 8 — Indoor recreation facility; athletic club, fitness center, racquetball court, swimming pool, tennis court or similar use;
- 9 — Outdoor recreation facility, golf course, golf driving range, swimming pool, tennis court, or similar use; and
- 10 — Recreational vehicle storage area.

B. In commercial zones. In all commercial zones, an applicant with a planned development approval may develop the site to contain all of the uses permitted outright in the underlying zone and, in addition, a maximum of 25% of the total gross floor area may be used for multi-family dwellings in those commercial zones that do not list multi-family dwellings as an outright use.

C. In industrial zones. In all industrial zones, a planned development shall contain only those uses allowed outright in the underlying zoning district.

18.350.070 Applicability of the Base Zone Development Standards

A. Compliance to specific development standards. The provisions of the base zone are applicable as follows:

- 1 — Lot dimensional standards: The minimum lot size, lot depth and lot width standards shall not apply except as related to the density computation under Chapter 18.715;
- 2 — Site coverage: The site coverage provisions of the base zone shall apply;
- 3 — Building height: The building height provisions shall not apply; and
4. — Structure setback provisions:
 - a. — Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 18.360;
 - b. The side yard setback provisions shall not apply except that all detached structures shall meet the Uniform Building Code requirements for fire walls; and
 - c. — Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that:
 - (1) A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street.
 - (2) A minimum front yard setback of eight feet is required for any garage opening for an attached single family dwelling facing a private street as long as the required off-street parking spaces are provided.

~~B. Other provisions of the base zone. All other provisions of the base zone shall apply except as modified by this chapter.~~

18.350.080 Exceptions to Underlying Development Standards

~~A. Exceptions to parking requirements. The Commission may grant an exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone based on findings that:~~

- ~~1 The minor exception is not greater than 10 percent of the required parking; and~~
- ~~2 The application is for a use designed for a specific purpose which is intended to be permanent in nature, e.g., a nursing home, and which has a low demand for off-street parking; or~~
- ~~3 There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or~~
- ~~4 Public transportation is available to the site, reducing the standards and will not adversely affect adjoining uses; or~~
- ~~5 There is a community interest in the preservation of particular natural features of the site which make it in the public interest to grant an exception to parking standards.~~

~~B. Exceptions to sign requirements. The Commission may grant an exception to the sign dimensional requirements in the applicable zone based on findings that:~~

- ~~1 The minor exception is not greater than 10 percent of the required applicable dimensional standard for signs;~~
- ~~2 The exception is necessary for adequate identification of the use on the property; and~~
- ~~3 The sign will be compatible with the overall site plan, the structural improvements and with the structures and uses on adjoining properties.~~

~~C. Exceptions to landscaping requirements. The Commission may grant an exception to the landscape requirements of this title upon a finding that the overall landscape plan provides for 20% of the gross site area to be landscaped.~~

18.350.090 [18.350.040] Conceptual Development Plan Submission Requirements

A. General submission requirements. The applicant shall submit an application containing all of the general information required for a Type IIIB *[-PC]* procedure, as governed by Section 18.390.050 *[and the additional information required by 18.350.040.B.]* In addition, the applicant shall submit the following:

1. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include:

[a.] A description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.

[b. An explanation of the architectural style, and what innovative site planning principles are utilized including any innovations in building techniques that will be employed.]

[c. An explanation of how the proposal relates to the purposes of the Planned Development

Chapter as expressed in 18.350.010.]

[d. An explanation of how the proposal utilized the Planning Commissioner's Toolbox.]

2. A **[general]** development schedule indicating the approximate dates when construction of the planned development and its various phases are expected to be initiated and completed.
 3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development. **[In the case where a residential subdivision is proposed, the statement shall include the applicant's intentions whether the applicant will build the homes, or sell the lots to other builders.]**
 - ~~4. A narrative statement presenting information, a detailed description of which is available from the Director.~~
- B. Additional information. In addition to the general information described in Subsection A above, the conceptual development plan, data, and narrative shall include the following information, the detailed content of which can be obtained from the Director:
1. Existing site conditions;
 2. A site concept **[including the types of proposed land uses and structures, including housing types, and their general arrangement on the site] ;**
 3. A grading concept;
 4. A landscape concept **[indicating a percentage range for the amount of proposed open space and landscaping, and general location and types of proposed open space(s);**

[5. Parking concept;]

5. **[6.]** A sign concept; and

[7. A streets and utility concept; and]

[8. Structure Setback and Development Standards concept, including the proposed residential density target if applicable.]

- ~~6. A copy of all existing or proposed restrictions or covenants.~~

[C. Allowable Uses]

1. In residential zones. In all residential zones, an applicant with a planned development approval may develop the site to contain a mixture of uses subject to the density provisions of the underlying zone and the density bonus provisions of 18.350.070.A.3.c. The following uses are allowed with planned development approval:
 - a. All uses allowed outright in the underlying zoning district;
 - b. Single-family detached and attached residential units;

- c. Duplex residential units;
 - d. Multi-family residential units;
 - e. Manufactured homes;
 - f. Accessory services and commercial uses directly serving the planned development only and which are customary or associated with, but clearly incidental to, the residential uses permitted in the zone *[such as personal services, preschool or daycare, and retail uses less than 5,000 square feet in sum total];*
 - g. Community building;
 - h. Indoor recreation facility; athletic club, fitness center, racquetball court, swimming pool, tennis court or similar use;
 - i. Outdoor recreation facility, golf course, golf driving range, swimming pool, tennis court, or similar use; and
 - j. Recreational vehicle storage area.
2. In commercial zones. In all commercial zones, an applicant with a planned development approval may develop the site to contain all of the uses permitted outright in the underlying zone and, in addition, a maximum of 25% of the total gross floor area may be used for multi-family dwellings in those commercial zones that do not list multi-family dwellings as an outright use.
 3. In industrial zones. In all industrial zones, a planned development shall contain only those uses allowed outright in the underlying zoning district.

[18.350.050 Concept Plan Approval Criteria]

[A. The concept plan may be approved by the Commission only if all of the following criteria are met:

- 1. The concept plan includes specific designations on the concept map for areas of open space, and describes their intended level of use, how they relate to other proposed uses on the site, and how they protect natural features of the site.***
- 2. The concept plan identifies areas of significant natural resources, if any, and identifies methods for their maximized protection, preservation, and/or management.***
- 3. The concept plan identifies how the future development will integrate into the existing neighborhood, either through compatible street layout, architectural style, housing type, or by providing a transition between the existing neighborhood and the project with compatible development or open space buffers.***
- 4. The concept plan identifies methods for promoting walkability or transit ridership, such methods may include separated parking bays, off street walking paths, shorter pedestrian routes than vehicular routes, linkages to or other provisions for bus stops, etc.***
- 5. The concept plan identifies the proposed uses, and their general arrangement on site. In the case of projects that include a residential component, housing type, unit density, or generalized lot sizes shall be shown in relation to their proposed location on site.***

6. *The concept plan must demonstrate that development of the property pursuant to the plan results in development that has significant advantages over a standard development. A concept plan has a significant advantage if it provides development consistent with the general purpose of the zone in which it is located at overall densities consistent with the zone, while protecting natural features or providing additional amenities or features not otherwise available that enhance the development project or the neighborhood.]*

[18.350.060 Detailed Development Plan Submission Requirements]

[A. General submission requirements. The applicant shall submit an application containing all of the general information required for a Type III-PC procedure, as governed by Section 18.390.050, the additional information required by 18.350.040.B and the approval criteria under 13.350.070.]

[B. Additional Information. In addition to the general information described in Subsection A above, the detailed development plan, data, and narrative shall include the following information:

1. *Contour intervals of 2 to 5 ft, depending on slope gradients, and spot elevations at breaks in grade, along drainage channels or swales, and at selected points, as needed.*
2. *A specific development schedule indicating the approximate dates of construction activity, including demolition, tree protection installation, tree removal, ground breaking, grading, public improvements, and building construction for each phase.*
3. *A copy of all existing and/or proposed restrictions or covenants.*

City Recorder's note: On October 24, 2006, the following wording shown at this location in this document for Section 4 a., b., and c. was deleted by the Tigard City Council:

~~4. *Moderate to High Density Development Analysis. If proposing development in an area within a Metro designated town or regional center, the following additional information may be required.*~~

~~a. *Air movement: Prevailing breezes characteristic of a region may be greatly modified by urban high-rise structures. Predominant air movement patterns in a city may be along roadways and between buildings. The placement, shape, and height of existing buildings can create air turbulence caused by micro air movement patterns. These patterns may influence the location of building elements such as outdoor areas and balconies. Also a building's design and placement can mitigate or increase local wind turbulence.*~~

~~b. *Sun and shadow patterns: The sun and shadow patterns of existing structures should be studied to determine how they would affect the proposed building. This is particularly important for outdoor terraces and balconies where sunlight may be desirable. Sun and shadow patterns also should be considered as sources of internal heat gain or loss. Building orientation, window sizes and shading devices can modify internal heat gain or loss. Studies should include daily and seasonal patterns and the shadows the proposed building would cast on existing buildings and open spaces.*~~

~~e. Reflections: Reflections from adjacent structures such as glass-clad buildings may be a problem. The development should be designed to compensate for such glare or if possible, oriented away from it.~~

[C. Compliance with specific development standards. The Detailed Development Plan shall show compliance with base zone provisions , with the following modifications:

1. **Lot dimensional standards: The minimum lot depth and lot width standards shall not apply. There shall be no minimum lot size except that lots on the perimeter of the project shall not be less than 80% of the minimum size required in the base zone.**
2. **Site coverage: The maximum site coverage is 80%, except in the IP zone where the maximum site coverage shall be 75%. Site coverage includes all buildings and impervious surfaces such as streets and sidewalks;**
3. **Building height: In residential zones, any increase in the building height above the maximum in the base zone will require that the structure be setback from the perimeter of the site a distance of at least 1-1/2 times the height of the building.**
4. **Structure setback provisions:**
 - a. **Setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 18.360;**
 - b. **The setback provisions for all setbacks on the interior of the project shall not apply except that:**
 - (1) **All structures shall meet the Uniform Building and Fire Code requirements;**
 - (2) **A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street. This setback may be reduced for rear or side loaded garages, if specified on the detailed plan and proper clearances for backing movements are accounted for.**
 - (3) **A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided. This setback may be reduced for rear or side loaded garages, if specified on the detailed plan and proper clearances for backing movements are accounted for.**
 - c. **If seeking to modify the base zone setbacks, the applicant shall specify the proposed setbacks, either on a lot by lot, or project wide basis. The commission may require site specific building envelopes.**
5. **Other provisions of the base zone. All other provisions of the base zone shall apply except as modified by this chapter.]**

18.350.100 [18.350.070 Detailed Development Plan] Approval Criteria

[A. Detailed Development Plan Approval Criteria. A detailed development plan may be approved only if all the following criteria are met:

1. The detailed plan is generally consistent with the concept plan. Minor changes from the concept plan do not make the detailed plan inconsistent with the concept plan unless:

- a. The change increases the residential densities, increases the lot coverage by buildings or reduces the amount of parking;**
- b. The change reduces the amount of open space and landscaping;**
- c. The change involves a change in use;**
- d. The change commits land to development which is environmentally sensitive or subject to a potential hazard; and**
- e. The change involves a major shift in the location of buildings, proposed streets, parking lots, landscaping or other site improvements.]**

~~A. Relationship to site development review. The provisions of Chapter 18.360, Site Development Review, are not applicable to Planned Development Reviews. The detailed development plan review is intended to address the same type of issues as the Site Development Review.~~

~~B. Specific planned development approval criteria. The Commission shall make findings that the following criteria are satisfied when approving or approving with conditions, the concept plan. The Commission shall make findings that the criteria are not satisfied when denying an application.~~

~~1. [2.] All the provisions of the land division provisions, Chapters 18.410, 18.420 [Partitions] and 18.430 [Subdivisions], shall be met [if applicable];~~

2. [3.] Except as noted, the provisions of the following chapters shall be utilized as guidelines. A planned development need not meet these requirements where a development plan provides alternative designs and methods, if acceptable to the Commission, that promote the purpose of this [chapter] section. In each case, the applicant must provide findings to justify the modification of the standards in the chapters listed in Subsection 3 below. **[The applicant shall respond to all the applicable criteria of each chapter as part of these findings and clearly identify where their proposal is seeking a modification to the strict application of the standards. For those chapters not specifically exempted, the applicant bears the burden of fully complying with those standards, unless a variance or adjustment has been requested.]**

~~The developer may choose to provide or the commission may require additional open space dedication and/or provision of additional amenities, landscaping or tree planting.~~

[a. Chapter 18.360, Site Development Review. The provisions of Chapter 18.360, Site Development Review, are not applicable to Planned Development Reviews. The detailed development plan review is intended to address the same type of issues as the Site Development Review.]

[b. Chapter 18.705, Access, Egress and Circulation. The Commission may grant an exception to the access standards, upon a demonstration by a professional engineer that the resulting access will not be detrimental to the public safety considering emergency vehicle needs, and provisions are provided for all modes of transportation using the site (vehicles, bicycles, pedestrians, and transit).]

—a. [c.] Chapter 18.715, Density Computation and Limitations. Unless authorized below, density shall be governed by the density established in the underlying zoning district, [using the minimum lot size established for that district. Where a project site encompasses more than one underlying zoning district, density shall be aggregated for each district, and may be allocated anywhere within the project site, as deemed appropriate by the commission.]

The Commission may further authorize a density bonus not to exceed 10% as an incentive to increase or enhance open space, architectural character and/or site variation incorporated into the development. These factors must make a substantial contribution to objectives of the planned development. The degree of distinctiveness and the desirability of variation achieved shall govern the amount of density increase which the Commission may approve according to the following:

(1) [A 1% bonus for each 5% of the gross site area set aside in open space, up to a maximum of 5%,] A maximum of 3% is allowed for the provision of [active use recreational open space] undeveloped common space, exclusive of areas contained in floodplain, [steep] slopes greater than 25%, drainageways, or wetlands that would otherwise be precluded from development;

(2) [Up to a maximum of 5% is allowed for the development of pedestrian amenities, streetscape development, recreation areas, plazas, or other items from the "Planning Commission's Toolbox."]

(2) A maximum of 3% is allowed for landscaping; streetscape development; developed open spaces, plazas and pedestrian pathways and related amenities; recreation area development; and/or retention of existing vegetation;

(3) A maximum of 3% is allowed for creation of visual focal points; use of existing physical amenities such as topography, view, and sun/wind orientation;

(4) A maximum of 3% quality of architectural quality and style; harmonious use of materials; innovative building orientation or building grouping; and/or varied use of housing types.

[d.] Chapter 18.745, Landscaping and Screening. [The Commission may grant an exception to the landscape requirements of this title upon a finding that the overall landscape plan was prepared by a licensed landscape architect, provides for 20% of the net site area to be professionally landscaped, and meets the intent of the specific standard being modified.]

[e.] Chapter 18.765, Off-street Parking and Loading Requirements. [The Commission may grant an exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone if :

- (1) The minimum number of parking spaces is not reduced by more than 10 percent of the required parking; and*
- (2) The application is for a use designed for a specific purpose which is intended to be permanent in nature, e.g., a nursing home, and which has a low demand for off-street parking; or*
- (3) There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or*
- (4) Public transportation is available to the site, and reducing the standards will not adversely affect adjoining uses; or*
- (5) There is a community interest in the preservation of particular natural features of the site which make it in the public interest to grant an exception to parking standards.]*

[f.] Chapter 18.780, Signs. [The Commission may grant an exception to the sign dimensional requirements in the applicable zone if:

- (1) The sign is not increased by more than 10 percent of the required applicable dimensional standard for signs; and*
- ~~*(2) The exception is necessary for adequate visibility of the sign on the property; and*~~

City Recorder's note: On October 24, 2006, Section (2) above was amended by the Tigard City Council to read as follows:

- (2) The exception is necessary for adequate visibility of the sign on the property; and*
- (3) The sign will be compatible with the overall site plan, the structural improvements and with the structures and uses on adjoining properties.]*

[g.] Chapter 18.795, Visual Clearance Areas. [The Commission may grant an exception to the visual clearance requirements, when adequate sight distance is or can be met;]

[h.] Chapter 18.810, Street and Utility Improvements, Sections 18.810.040, Blocks; and 18.810.060, Lots. Deviations from street standards shall be made on a limited basis, and nothing in this section shall obligate the City Engineer to grant an exception. The Commission has the authority to reject an exception request. The Commission can only grant an exception to street sanctions if it is sanctioned by

the City Engineer. The City Engineer may determine that certain exceptions to the street and utility standards are permissible when it can be shown that:

- (1) Public safety will not be compromised; and*
- (2) In the case of public streets, maintenance costs will not be greater than with a conforming design; and*
- (3) The design will improve stormwater conveyance either by reducing the rate or amount of runoff from present standards or increasing the amount of pollutant treatment.]*

- b. ~~Chapter 18.730, Exceptions to Development Standards;~~
- e. ~~Chapter 18.795, Visual Clearance Areas;~~
- d. ~~Chapter 18.745, Landscaping and Screening;~~
- e. ~~Chapter 18.765, Off-street Parking and Loading Requirements;~~
- f. ~~Chapter 18.705, Access, Egress and Circulation; and~~
- g. ~~Chapter 18.780, Signs.~~

~~3-~~ **[4.]** In addition, the following criteria shall be met:

a. Relationship to the natural and physical environment:

- (1) The streets, buildings and other site elements shall be designed and located to preserve the existing trees, topography and natural drainage to the greatest degree possible. *[The commission may require the applicant to provide an alternate site plan to demonstrate compliance with this criterion;]*
- (2) Structures located on the site shall not be in areas subject to ground slumping and sliding *[as demonstrated by the inclusion of a specific geotechnical evaluation;]*
- ~~(3) There shall be adequate distance between on-site buildings and other on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection;~~
- (4) *[(3) Using the basic site analysis information from the concept plan submittal,]* the structures shall be oriented with consideration for the sun and wind directions, where possible; and
- ~~(5) Trees preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal.~~

b. Buffering, screening and compatibility between adjoining uses:

- (1) Buffering shall be provided between different types of land uses, e.g., between single-family and multi-family residential, and residential and commercial uses;
- (2) In addition to the requirements of the buffer matrix (Table 18.745.1), *[the requirements of the buffer may be reduced if a landscape plan prepared by a registered Landscape Architect is submitted that attains the same level of buffering and screening with alternate materials or methods.]* The following factors shall be considered in determining the adequacy and extent of the buffer required under

Chapter 18.745:

- (a) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;
 - (b) The size of the buffer needs in terms of width and height to achieve the purpose;
 - (c) The direction(s) from which buffering is needed;
 - (d) The required density of the buffering; and
 - (e) Whether the viewer is stationary or mobile.
- (3) On-site screening from view from adjoining properties of such activities as service areas, storage areas, parking lots and mechanical devices on roof tops shall be provided and the following factors shall be considered in determining the adequacy of the type and extent of the screening:
- (a) What needs to be screened;
 - (b) The direction from which it is needed; and
 - (c) Whether the screening needs to be year- round.
- c. Privacy and noise: Non-residential structures which abut existing residential dwellings shall be located on the site or be designed in a manner, to the maximum degree possible, to protect the private areas on the adjoining properties from view and noise;
- [d. Exterior elevations – single-family attached and multiple-family structures: Along the vertical face of single-family attached and multiple-family structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:*
- (1) Recesses, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet;*
 - (2) Extensions, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet, a maximum length of an overhang shall be 25 feet; and*
 - (3) Offsets or breaks in roof elevations of three or more feet in height.]*
- d. *[e.]* Private outdoor area – ~~[residential]~~ multi-family use:
- (1) In addition to the requirements of subparagraph (3), [Exclusive of any other required open space facility,] each ground-level residential dwelling unit shall have an outdoor private area (patio, terrace, [or] porch) of not less than 48 square feet [with a minimum width dimension of four feet;]*
 - (2) Wherever possible, private outdoor open spaces should be oriented toward the sun; and*
 - (3) Private outdoor spaces shall be screened or designed to provide privacy for the use of the space.*
- e. *[f.]* Shared outdoor recreation areas – ~~[residential]~~ multi-family use:
- (1) In addition to subparagraphs (2) and (3) of this section [Exclusive of any other required open space facilities,] each multiple-dwelling [residential] development shall incorporate shared usable outdoor recreation areas within the development plan as follows:*
 - (a) Studio units up to and including two bedroom units, 200 square feet per unit; and*
 - (b) Three or more bedroom units, 300 square feet per unit.*

(2) Shared outdoor recreation space shall be readily observable from adjacent units for reasons of crime prevention and safety;

(3) The required recreation space may be provided as follows:

- (a) It may be all outdoor space; or
- (b) It may be part outdoor space and part indoor space; for example, an outdoor tennis court and indoor recreation room; or
- (c) It may be all public or common space; or
- (d) It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room, and balconies on each unit; or
- (e) Where balconies are added to units, the balconies shall not be less than 48 square feet.

- [(a) Additional outdoor passive use open space facilities;*
- (b) Additional outdoor active use open space facilities;*
- (c) Indoor recreation center; or*
- (d) A combination of the above.]*

City Recorder's note: On October 24, 2006, the following wording for a Section g, which was shown at this location in this document, was deleted by the Tigard City Council:

~~*[g] Demarcation of public, semi-public and private spaces for crime prevention:*~~

~~*(1) The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas and private outdoor areas are clearly defined to establish persons having a right to be in the space, to provide for crime prevention and to establish maintenance responsibility; and*~~

~~*(2) These areas may be defined by, but not limited to:*~~

~~*(a) A deck, patio, low wall, hedge, or draping vine;*~~

~~*(b) A trellis or arbor*~~

~~*(c) A change in elevation or grade;*~~

~~*(d) A change in the texture of the path material;*~~

~~*(e) Sign; or*~~

~~*(f) Landscaping.*~~

£. ~~*[g.]*~~ Access and circulation:

- (1) The number of ~~*[required]*~~ allowed access points for a development shall be provided in Chapter 18.705;
- (2) All circulation patterns within a development must be designed to accommodate emergency ~~*[and service]*~~ vehicles; and
- (3) Provisions shall be made for pedestrian and bicycle ways ~~*[abutting and through a*~~

site] if such facilities are shown on an adopted plan [or terminate at the boundaries of the project site.]

g. ~~[h.]~~ Landscaping and open space:

(1) Residential Development: In addition to the ~~[buffering and screening requirements of paragraph b of this subsection, and any minimal use open space facilities,]~~ requirements of subparagraphs (4) and (5) of section a of this subsection, a minimum of 20 percent of the site shall be landscaped. ~~[This may be accomplished in improved open space tracts, or with landscaping on individual lots provided the developer includes a landscape plan, prepared or approved by a licensed landscape architect, and surety for such landscape installation;]~~

~~(2) Commercial Development: A minimum of 15 percent of the site shall be landscaped; and~~

~~(3) Industrial Development: A minimum of 15 percent of the site shall be landscaped;~~

h. ~~[i.]~~ Public transit:

(1) Provisions for public transit may be required where the site abuts ~~[or is within a 1/4 mile off]~~ a public transit route. The required facilities shall be based on:

- (a) The location of other transit facilities in the area; and
- (b) The size and type of the proposed development.

(2) The required facilities ~~[may include but are not necessarily limited to]~~ shall be limited to such facilities as:

- (a) A waiting shelter;
- (b) A turn-out area for loading and unloading; and
- (c) Hard surface paths connecting the development to the waiting area.

~~[(3) If provision of such public transit facilities on or near the site is not feasible, the developer may contribute to a fund for public transit improvements provided the Commission establishes a direct relationship and rough proportionality between the impact of the development and the requirement.]~~

~~i. Signs:~~

~~(1) In addition to the provisions of Chapter 18.780, Signs:~~

- ~~(a) Location of all signs proposed for the development site; and~~
- ~~(b) The signs shall not obscure vehicle driver's sight distance;~~

j. ~~[j.]~~ Parking:

(1) All parking and loading areas shall be generally laid out in accordance with the requirements set forth in Chapter ~~Chapter~~ 18.765;

(2) Up to 50% of required off-street parking spaces for single-family attached dwellings may be provided on one or more common parking lots within the planned development as long as each single-family lot contains one off-street parking space.

~~[k.]~~ Drainage: All drainage provisions shall be generally laid out in accordance with the requirements set forth in Chapter ~~[18.810.] 18.775, and the criteria in the adopted 1981~~

~~master drainage plan; [An applicant may propose an alternate means for stormwater conveyance on the basis that a reduction of stormwater runoff or an increase in the level of treatment will result from the use of such means as green streets, porous concrete, or eco roofs.]~~

~~l. [L.] Floodplain dedication: Where landfill and/or development is allowed within or adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian bicycle pathway plan.~~

~~[m.] 18.350.110 Shared Open Space [Facilities: The detailed development plan shall designate a minimum of 20% of the gross site area as a shared open space facility. The open space facility may be comprised of any combination of the following:~~

~~(1) Minimal Use Facilities. Up to 75% of the open space requirement may be satisfied by reserving areas for minimal use. Typically these areas are designated around sensitive lands (steep slopes, wetlands, streams, or 100 year floodplain).~~

~~(2) Passive Use Facilities. Up to 100% of the open space requirement may be satisfied by providing a detailed development plan for improvements (including landscaping, irrigation, pathway and other structural improvements) for passive recreational use.~~

~~(3) Active Use Facilities. Up to 100% of the open space requirement may be satisfied by providing a detailed development plan for improvements (including landscaping, irrigation, pathway and other structural improvements) for active recreational use.~~

~~(4) The open space area shall be shown on the final plan and recorded on the final plat or covenants.]~~

~~[n. Open Space Conveyance. Where a proposed park, playground or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system.~~

~~Where considered desirable by the Commission in accordance with adopted comprehensive plan policies, and where a development plan of the City does not indicate proposed public use areas, the Commission may require the dedication or reservation of areas within the subdivision or sites of a character, extent and location suitable for the development of parks or other public use, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system. The open space shall be conveyed in accordance with one of the following methods:]~~

~~A. Requirements for shared open space. Where the open space is designated on the plan as common open space the following applies:~~

~~1. The open space area shall be shown on the final plan and recorded with the Director; and~~

~~2. The open space shall be conveyed in accordance with one of the following methods:~~

~~a. **[(1) Public Ownership.]** By dedication to the City as publicly owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to it with regard to the size, shape, location, improvement and budgetary and maintenance limitations *[A determination of City acceptance shall be made in writing by the Parks & Facilities Division Manager prior to final approval. Dedications of open space may be eligible for Systems Development Charge credits, usable only for the proposed development. If deemed to be not acceptable, the open space shall be in private ownership as described below;]*~~

~~b. **[(2) Private Ownership.]** By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, *[and granting a conservation easement to the City in a form acceptable by the City. The terms of the conservation easement must include provisions for the following:]*~~

~~with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following:~~

- ~~(1) *(a)* The continued use of such land for the intended purposes;~~
- ~~(2) *(b)* Continuity of property maintenance;~~
- ~~(3) *(c)* When appropriate, the availability of funds required for such maintenance;~~
- ~~(4) *(d)* Adequate insurance protection; and~~
- ~~(5) *(e)* Recovery for loss sustained by casualty and condemnation or otherwise.~~

~~c. By any method which achieves the objectives set forth in Subsection 2 above of this section.~~