

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planner

CC: Scott McCullough, Director of Planning and Development Services
Sheila Stogsdill, Assistant Planning Director

Date: For June 21, 2010 Planning Commission meeting

RE: Item No. 5--TA-12-27-07: Text Amendment for Protection of
Environmentally Sensitive Lands with Density Bonus Incentive

At their April, 2010 meeting, the Planning Commission directed staff to incorporate the density bonus incentives into the proposed text amendment TA-12-27-07 which revises the protection standards for environmentally sensitive lands in Sections 20-701, 20-702, 20-703 and 20-1101, and revises definitions in Section 20-1701 of the Development Code. The draft text amendment clarifies the definitions of environmentally sensitive lands, broadens the development options for properties which contain environmentally sensitive lands, and includes density bonus incentives for developments that protect more environmentally sensitive lands than required by Code.

The proposed text amendment is included with this memo in two forms, one showing the changes from the existing code language and another with the changes incorporated into a clean copy. The back-up material for the density bonus incentive from the April Commission meeting is included in the Commission's agenda packet for reference.

RECENT DISCUSSION WITH DEVELOPMENT COMMUNITY

Following the April Planning Commission meeting, staff met with a member of the development community who indicated they preferred the use of a straight density factor (such as 60% of the maximum density permitted) for the determination of the base density rather than the use of a 'concept plat' or 'sketch plan'. The difficulty lies in determining the density factor. As seen in the plat review provided in April, and included in the agenda packet, the actual density achieved varies quite a bit between properties. Realizing that the use of a concept or sketch plan may be additional work, staff still prefers the use of these tools for the determination of the base density, or the actual density which may be achieved for the property, as it will be based on the individual property.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission consider the proposed draft language and forward it to the City Commission with a recommendation for approval.

ARTICLE 7. PLANNED DEVELOPMENTS

- 20-701 PD, Planned Development Overlay District**
20-702 Cluster Housing Projects
20-703 Open Space Standards in Cluster and Planned Developments

20-701 PLANNED DEVELOPMENT OVERLAY DISTRICT

(a) Purpose

The PD, Planned Development regulations are intended to:

- (1) ensure development that is consistent with the Comprehensive Plan;
- (2) ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services;
- (3) allow design flexibility that results in greater public benefits than could be achieved using conventional Zoning District regulations;
- (4) preserve environmental and historic resources; and
- (5) promote attractive and functional residential, nonresidential, and mixed-use developments that are compatible with the character of the surrounding area.

(b) Procedure

PDs shall be reviewed and approved in accordance with the procedures of Section 20-1304.

(c) Developer's Statement of Intent

Each PD application shall include a comparison of the proposed development with the standards of the Base District and the otherwise applicable standards of this Development Code. Applications shall also include a Statement by the applicant describing how the proposed development provides greater benefits to the City than would a development carried out in accordance with otherwise applicable Development Code standards.

(d) Effect of Other Development Code Standards

Except as expressly authorized by the regulations of this section and approved as part of a PD plan (in accordance with the procedures of Section 20-1304), all of the standards of this Development Code apply to development within a PD District.

(e) Minimum District Size

Minimum area for a PD district shall be five acres.

(f) Standards Eligible for Modification

As a condition of approval, the Planning Commission or City Commission may designate by ordinance or as a note on the face of the development plan, any specific use, Structure or Building Type which shall be restricted and excluded as part of the Planned Development Overlay District. The City Commission may modify the following standards during the PD approval process. Standards not listed are not eligible for modification.

(1) Allowed Uses

The Planning Commission shall recommend, and the City Commission shall approve, a list of uses allowed in a PD at the time of PD preliminary approval. Regardless of the fact that the approved uses may be determined by reference to a Base District, the list of approved uses shall be incorporated into and made a condition of the PD approval. The City Commission may approve only uses that are allowed in the Base District, provided that:

- (i) PDs in Single-Dwelling and Multi-Dwelling (RS and RM) Districts may include land area for commercial uses at a ratio of up to 50 square feet of land area per Dwelling Unit.
- (ii) commercial uses, in addition to those otherwise permitted by right, may be approved in a PD in an RS or RM District, if the PD includes a minimum area of 10 acres or more than 100 Dwelling Units.

(2) Lot Size

The minimum Lot size standards of the Base District may be reduced by the City Commission, provided that Lot sizes shall be adequate to safely accommodate all proposed Buildings and site features.

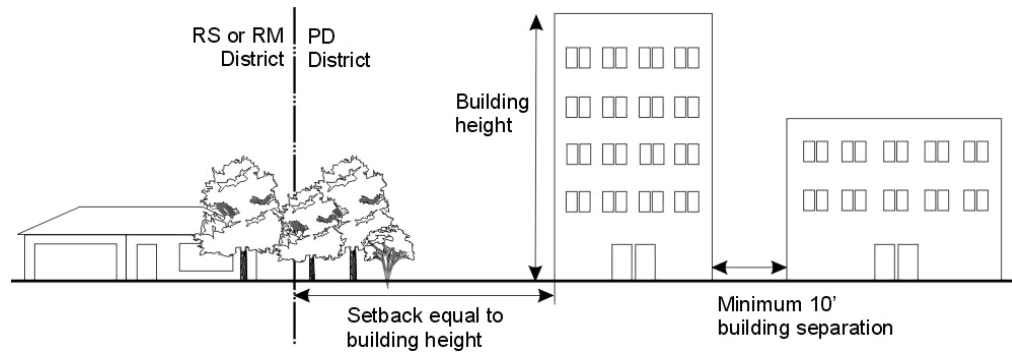
(3) Residential Density

The City Commission may increase the maximum Net Density beyond that of the Base District by up to 25% if the City Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development.

(4) Setbacks

The minimum Setback standards of the Base District may be reduced by the City Commission, provided that:

- (i) Buildings located within the PD, and along any District boundary that is adjacent to RS and or RM Zoning Districts shall be Setback a distance at least equal to the Height of the proposed Building; and
- (ii) All exterior walls of detached Buildings shall be separated by a minimum distance of 10 feet.
- (iii) Balconies shall not be located along peripheral site Setbacks adjacent to RS zoned properties unless privacy Screening and Landscaping is included in the design.



(g) Height

The City Commission may increase maximum Height limits of the Base District if the Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development. Height increases shall be permitted only for Buildings set back from the boundary of the PD by the Height of the proposed Building plus 25 feet, so that the primary impact of the increased Height is on property within the PD.

(h) Balconies

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a Planned Development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum Height) or a masonry wall (6' minimum Height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(i) Parking and Loading

The City Commission may decrease the number of off-Street Parking and loading spaces required. Parking and loading areas shall comply with all otherwise applicable design standards.

(j) Buffer Areas

Development within 60 feet of the peripheral boundary of the PD shall be limited to the following:

- (1) use category, Heights, Setbacks and minimum Lot sizes permitted in the Zoning District immediately adjoining the proposed PD on the date of preliminary development plan approval of the PD; and
- (2) a landscaped buffer, including a Berm (minimum 4' in Height), a masonry wall (minimum of 6' in Height) or a fence (minimum 6' in Height).

(k) Common Open Space

(1) Amount Required

The PD shall include at least ~~the amount of Common Open Space computed using one of the following formulas, whichever produces the largest number:~~

- (i) ~~(20%) of the total area included in the PD; or~~

~~(ii) 300 square feet for each proposed Dwelling Unit in the PD.~~
20% of the total site area as Common Open Space. Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 50% of the Common Open Space shall be developed as Recreational Open Space unless environmentally sensitive lands are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the Common Open Space, with the intent being to preserve all or as much environmentally sensitive lands as possible in their natural state.

~~(2) Recreational Open Space~~

~~At least one-half of the proposed Common Open Space shall be suitable for use as and proposed for development as Recreational Open Space.~~

~~(3) Natural Open Space~~

~~To the maximum extent practicable, the following types of lands shall be included in the Common Open Space as Natural Open Space. To the extent that it is not practicable to include all of such areas in the Common Open Space, the order of types of lands included in this list shall be considered a priority list, with the first item being the most important, the last being the least important.~~

- ~~(i) Floodway, based on a 100-year storm;~~
- ~~(ii) Floodplain outside the floodway, based on a 100-year storm;~~
- ~~(iii) Jurisdictional Wetlands;~~
- ~~(iv) Stream Corridors;~~
- ~~(v) Stand of Mature Trees or individually significant mature trees;~~
- ~~(vi) Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~(vii) Archeological and Historic Sites~~

~~(4) General Provisions~~

~~See Section 20-703 for General Provisions applicable to Open Space in a PD or Cluster Development.~~

(I) Additional Requirements and Standards

(1) Unified Control

No application for a PD will be accepted or approved unless all of the property included in the application is under unified Ownership or a single entity's control.

(2) Street Access

PDs that will generate 100 or more average daily trips (based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual, 7th edition, or subsequent edition, or based on local estimates provided by the City) shall have Access to an Arterial Street using a Frontage or rear Access road or by taking direct Access to a Collector Street.

Individual residential Building Lot shall not take direct Access to an Arterial Street or a non-Residential Collector Street. Each individual residential Lot shall have Frontage on a public or Private Street that has been constructed to the Public Street standards of the City.

(3) Sidewalks

Sidewalks built to City specifications shall be built along both sides of all public and Private Streets. On Local Streets, sidewalks shall be at least 5 feet in width; on all other Streets sidewalks shall be at least 6 feet in width.

(4) Landscaping

The Landscaping and Screening standards of Article 10 apply to PDs. In addition, any part of the development area not used for Buildings, Structures, Parking, Streets, or Accessways shall be landscaped with a sufficient mixture of grass, vegetative Ground Cover, trees, and Shrubs, except those areas designated to be preserved with natural vegetation.

(5) Preservation of Natural Features

Mature stands of trees or individually significant mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. At a minimum ***the common open space provisions in this section and*** the standards of Article 10 apply.

(6) Zoning Map

Approved PDs shall be identified on the Official Zoning District Map.

(7) Additional Conditions

The Planning Commission may recommend, and the City Commission may impose, other reasonable conditions and standards, as deemed necessary to ensure consistency with the purposes of this section and those of this Development Code. Such conditions may include limitations on the types of uses, Structures or Building Types to be allowed in the PD. When such conditions are imposed, an application will not be deemed approved until the applicant has complied with all of the conditions of approval.

(m) Additional Standards for PD's with Residential and Nonresidential Uses

In PDs containing both residential and nonresidential uses, the nonresidential uses shall be designed, located, and oriented on the site so that such uses are directly accessible to residents of the PD. For the purposes of this Section, directly accessible shall mean pedestrian/Bicycle and automobile Access by way of improved sidewalks or paths and Streets that do not involve leaving the PD or using a major Thoroughfare. "Directly accessible" does not necessarily mean that nonresidential uses need to be located in a particular location but that the siting of such uses considers the accessibility of the residential component of the PD to the nonresidential use.

20-702 CLUSTER HOUSING PROJECTS

(a) Purpose

The cluster housing regulations of this section have several potential public benefits. They:

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- (1) provide flexible development options where the standard Lot and Block pattern is not practical because of physical constraints;
 - (2) promote the preservation of open space and natural areas;
 - (3) allow for grouping of development on a portion of the site while using the entire site area to calculate Density of the Base District.
 - (4) support reductions in development costs.

(b) General

- (1) A Cluster Housing Project is a subdivision containing five (5) or more detached Dwellings each on its own Lot with some or all of the Lots reduced below required minimum Lot Area and width requirements, but where the overall project complies with the maximum Density standard of the Base District. Cluster Housing Projects require that planning for Lots and the locations of houses on the Lots be done at the same time. Because the allowable Building Envelope of each house is predetermined, greater flexibility in development standards is possible while assuring that the single-Dwelling character of the Zoning District is maintained.
- (2) Under the cluster housing option, a subdivision can contain no more Lots than would otherwise be allowed for a conventional subdivision in the same Zoning District, but the individual Lots within the development can be smaller than required in a conventional subdivision. Smaller Lot sizes within a Cluster Housing Project are required to be offset by a corresponding increase in Common Open Space.

(c) Where Allowed; Procedure

Cluster Housing Projects are allowed by right in all residential Zoning Districts and in the CN1 District, as provided below.

- (1) In RS Districts and the CN1 District, Cluster Housing Projects shall not include more than 35 Dwelling Units. Larger projects in said Districts are subject to the Planned Development regulations of Section 20-701 and shall be reviewed and approved in accordance with the procedures of Section 20-1304.
- (2) Cluster Housing Projects allowed by-right will be evaluated for compliance with applicable regulations and reviewed and approved in accordance with the subdivision procedures of Article 8 review process.

(d) Lot Area and Lot Width Requirements

There are no minimum Lot Area or Lot Width requirements for Cluster Housing Projects. Lots shall be adequate to meet all applicable standards of this Development Code.

(e) Housing Types

Detached Dwelling Units on individual Lots are the only type of housing allowed in a Cluster Housing Project. The proposed Building Envelope for all houses shall be shown on the subdivision plat with enough detail so that compliance with required Density and Dimensional Standards can be determined.

(f) Setbacks

- (1) A Setback equal to the minimum Front Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is adjacent to any Street or right-of-way.
- (2) A Setback equal to the minimum Rear Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is not adjacent to any Street or right-of-way.
- (3) Within the project, the distance between houses shall be at least 10 feet (to be measured in accordance with the Setback measurement provisions of Section 20-602(e)).

(g) Building Coverage

The Building coverage standards of the Base District do not apply to each individual Lot, but the total Building coverage of all Lots (in aggregate) may not exceed the maximum Building coverage standard of the Base District.

(h) Outdoor Area

The required minimum outdoor area standard per Dwelling Units of 240 Sq. Ft. shall be on each Lot.

(i) Common Open Space

(1) Amount Required

The Cluster Housing Project shall include at least **10% of the total site area as Common Open Space**. ~~the amount of Common Open Space computed using whichever of the following formulas produces the largest number:~~

- ~~(i) The total area resulting from the sum of the following: the difference between the minimum Lot Area required for the Base District and the actual Lot Area proposed for each Lot in the Cluster Development; or~~
- ~~(ii) Ten percent (10%) of the total site area included in the Cluster Housing Project.~~

Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 30% of the Common Open Space shall be developed as Recreational Open Space, unless environmentally sensitive lands are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the Common Open Space, with the intent being to preserve all or as much environmentally sensitive lands as possible in their natural state.

(2) ~~Recreational Open Space~~

~~At least one-third of the proposed Common Open Space shall be suitable for use as and proposed for development as Recreational Open Space.~~

~~(3) Natural Open Space~~

~~To the maximum extent practicable, the following types of lands shall be included in the Common Open Space as Natural Open Space. To the extent that it is not practicable to include all of such areas in the Common Open Space, the order of types of lands included in this list shall be considered a priority list, with the first item being the most important, the last being the least important, and so on:~~

- ~~(i) floodway, based on a 100-year storm;~~
- ~~(ii) Floodplain Outside The Floodway, based on a 100-year storm;~~
- ~~(iii) jurisdictional Wetlands;~~
- ~~(iv) Stream Corridor;~~
- ~~(v) significant Stand of Mature Trees or individually significant mature trees;~~
- ~~(vi) Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~(vii) archeological and historic sites.~~

(4) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a Planned Development or Cluster Housing Project.

20-703 OPEN SPACE STANDARDS IN CLUSTER AND PLANNED DEVELOPMENTS

(a) Preservation Required

The Open Space land shall be preserved and maintained solely for the purposes specified in this Section and in such a manner as may be acceptable to the City Commission. The method for accomplishing such preservation and maintenance of Open Space land shall be limited to one of the following:

- (1) establishment of a mandatory-membership homeowner's association to own and maintain the land in common for the Open Space purposes intended; or
- (2) transfer of the land to a conservation trust or an institution, person, organization or other conservation-oriented entity together with the requisite requirements for maintenance of the land for the Open Space purposes intended; or
- (3) dedication of the land to the City with executed deed restrictions that the City is party to, which ensure the land shall remain as dedicated open space, subject to City Commission acceptance of such dedication.

(b) Execution of Instruments

The City Commission shall require the ~~Owner~~ **Developer** or Owner of the Open Space land to execute, acknowledge and file at the Register of Deeds office such maps and documents as, in the opinion of the Director of Legal Services, will effectively create a trust, Easement or covenant running with the land, for the benefit of the ~~abutting Dwelling Unit Owner~~ **property owners in the development** and of the City, which:

- (1) will be binding on all future Owners of the Open Space land;
- (2) will not be affected by any subsequent changes in zoning;
- (3) may be enforced by ~~adjoining property Owner~~ **property owners in the development** or the City by appropriate action in court for damage or equitable relief;
- (4) will be perpetual;
- (5) will assure appropriate maintenance of the Open Space land to the satisfaction of the City Commission;
- (6) shall provide that if maintenance, preservation and/or use of the Open Space land no longer complies with the provisions of the trust, Easement or covenant, the City may take all necessary actions to effect compliance and assess the costs against the Owner in default;
- (7) shall provide that such trust, Easement or covenant may not be modified, altered, amended, or changed without written approval of the City Commission, and all beneficiary property Owners in the ~~PD PUD or Cluster Housing Project development~~ **PD PUD or Cluster Housing Project development** except in the case of City-owned land in which case deed restrictions shall be binding.

ARTICLE 11. GENERAL DEVELOPMENT STANDARDS

20-1101	Protection Standards for Residential Districts
20-1102	Intersection Visibility
20-1103	Outdoor Lighting
20-1104	Performance Agreements; Guarantees
20-1105	Sidewalks
20-1106	Agreement Not to Protest Formation of a Benefit District
20-1107	Retail Market Impact Analysis
20-1108	General Development Standards for Mixed Use(MU) Districts

20-1101 PROTECTION STANDARDS FOR RESIDENTIAL DISTRICTS

(a) Design and Operational Compatibility Standards—Discretionary Approvals

As a condition of approval of any Special Use Permit, Map Amendment, site plan or other discretionary approval of any multi-Family use or nonresidential use located within 500 feet of any less intensive residential district, the City Commission, Planning Director, Planning Commission or other review body may impose conditions that exceed the minimum requirements of this Chapter and that, in the opinion of the review body, are necessary to reduce or minimize any potentially adverse impacts on residential property, including, but not necessarily limited to, the following:

- (1) location on a site of activities that generate potential adverse impacts on adjacent uses, such as noises and glare;
- (2) placement and buffering of trash receptacles;
- (3) location of loading and delivery areas;
- (4) lighting location, intensity, and hours of illumination;
- (5) placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;
- (6) additional Landscaping and buffering;
- (7) Height restrictions to preserve light and privacy and views of significant features as viewed from public property and rights-of-way;
- (8) preservation of natural lighting and solar Access;
- (9) ventilation and control of odors and fumes; and
- (10) paving or other surface treatment for dust control.

(b) Height Limit on Projects Adjoining Certain Residential Zoning Districts

See Section 20-701(g) for Height limits in the PD district.

(c) Balconies of a multi-Dwelling Unit Building

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a RM development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following

features: a minimum 4' Berm, a solid Screening fence (6' minimum height) or a masonry wall (6' minimum height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(d) ~~Implementation of Sensitive Land Standards~~ **Standards for Environmentally Sensitive Lands**

(1) ~~Applicability of Environmental Design Standards – Generally~~

The provisions of this Article regarding environmental protection for sensitive lands shall apply to all construction and development in all RS and RM Districts, **with the exception of individually platted lots for single or duplex dwellings which were platted prior to (the effective date of this Text Amendment).** ~~except as expressly exempted in this paragraph.~~

(2) ~~Applicability of Environmental Design Standards – Effect on Development Type Principal~~ **Environmentally Sensitive Lands**

(i) **Protected Areas.**

~~If a significant portion~~ **500 sq ft or more** of a proposed development, as specified ~~in this sub-section (d),~~ consists of lands falling in the following categories, any proposed development may proceed only in accordance with the processes allowed by this sub-paragraph **section.** ~~The lands affected by this section shall include the following lands;~~ **are listed below in a priority order for protection:**

- a. **Regulatory Floodways, based on 100-year storm designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the City GIS Baseline Environmentally Sensitive Areas Map;**
- b. ~~Floodplain outside the Floodway;~~ **Regulatory Floodway Fringe, designated on the FEMA Flood Insurance Rate Map for Douglas County based on 100 year storm and identified on the City GIS Baseline Environmentally Sensitive Areas Map,**
- c. Jurisdictional Wetlands, **as determined by the Army Corps of Engineers.**
- d. Stream Corridors **as defined in this Code and identified on the City GIS Baseline Environmentally Sensitive Areas Map**
- e. Stands of Mature Trees ~~or Individually Significant Mature Trees as defined in this Code and identified on the City GIS Baseline Environmentally Sensitive Areas Map; and~~
- f. ~~Prominent Geographic Features with Rocky Outcroppings; and~~
- g. Archaeological and Historic Sites **listed on local, state, or federal registers.**

(ii) **Determination of Development Land Area**

In determining whether a portion of a proposed development consists of sensitive lands, all contiguous lands under the same Ownership or control shall be considered. Lands owned or controlled by a partnership, trust or corporation

under the same effective control shall be considered, along with lands owned directly by the applicant and lands under option to the applicant or a partnership, trust or corporation under the effective control of the applicant.

(3) **~~Procedures to be Followed~~ Protection Standards**

~~a. Sensitive Areas Site Plan~~

~~Development on a platted Lot or Parcel including more than 500 square feet of sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(c)], which shall be consolidated with any other required site plan submitted. The development shall be subject to any conditions related to the sensitive lands included in approval of the subdivision or any Planned Development application including the platted Lot(s).~~ **REVISED AND MOVED TO SUBSECTION (b)-BELOW**

(i) Platted Lots-Amount Required

The minimum amount of environmentally sensitive lands which are required to be protected in Planned Developments and Cluster Housing Projects are noted in Sections 20-701 and 20-702 respectively. For other types of developments, required protection of environmentally sensitive lands shall be limited protected up to a maximum protection area of 20% of the total land area. The protected environmentally sensitive lands shall be set aside as private Common Open Space or dedicated to the City as parkland or open space. Incentives for protection of environmentally sensitive lands in amounts above 20% of the total land area are included in Section 20-1101(f).

(ii) ~~Land not Previously Subdivided~~ Development Process

Development on land ~~not previously subdivided~~ and including ***which contains*** more than 500 square feet of ***environmentally*** sensitive lands shall ***require submission of a Sensitive Areas Site Plan [see Section 20-1101(f)], and may proceed through one of the following processes:***

- a. ***Site Planning.*** Development on ***properties*** ~~a platted Lot or Parcel including~~ ***containing*** more than 500 square feet of ***environmentally*** sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(f)], which ~~shall~~ ***may*** be consolidated with any other required site plan submitted, ***but will be, in any event, required prior to approval of a development proposal.*** The development shall be subject to any conditions related to the sensitive lands included in approval of the subdivision or any Planned Development application including the platted Lot(s). ~~The plan shall clearly delineate the environmentally sensitive lands to be protected and shall include information regarding protection measures and maintenance.~~
- b. ***Platting.*** ***Environmentally sensitive lands to be protected shall be located within tracts and/or easements. Information regarding ownership and maintenance responsibility of the tract or easement, as well as protection measures, shall be included on the preliminary and final plat.***

- c. Planned Development. Development standards in Section 20-701 apply. Environmentally sensitive lands to be protected shall be included within the Common Open Space.***
 - d. Cluster Housing Project. Development standards in Section 20-702 apply. Environmentally sensitive lands to be protected shall be included within the Common Open Space.***
- ~~1. If less than five percent (5%) of the land area consists of sensitive lands, the property may be developed through a conventional subdivision, a cluster subdivision or Planned Development;~~
 - ~~2. If five percent (5%) or more of the land area but less than 15% of the land area consists of sensitive lands, the property may be developed through a cluster subdivision or Planned Development, but may not be otherwise subdivided or developed;~~
 - ~~3. If 15% or more of the land area consists of sensitive lands, the property may be developed only through as a Planned Development.~~

~~(3)Applicability of Environmental Design Standards—Effect on Development Plan for Sensitive Lands~~

(iii) Dedication

~~Where the following types of lands are included in a proposed development, such lands shall be included in any land dedicated to the City as part of any required Open Space dedication, in the priority order set forth in this paragraph, up to the required land dedication for the development.~~

- ~~a. Floodways, based on 100 year storm;~~
- ~~b. Floodplain outside the Floodway, based on 100 year storm;~~
- ~~c. Jurisdictional Wetlands;~~
- ~~d. Stream Corridors;~~
- ~~e. Stand of Mature Trees or individually significant mature trees;~~
- ~~f. Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~g. Archaeological and Historic Sites.~~

(iv) Private Open Space

~~Where the following types of lands are included in a proposed development and will not be dedicated to the City, such lands shall be included in required Open Space for the development, in the priority order set forth in this paragraph up to one-half the required Open Space for the development, with the remaining one-half of the Open Space to be suitable for active recreation:~~

- ~~a. Floodways;~~
- ~~b. Floodplains outside the Floodway, based on 100 year storm;~~
- ~~c. Jurisdictional Wetlands;~~
- ~~d. Stream Corridors;~~
- ~~e. Stand of Mature Trees or Individually Significant Mature Trees;~~

- ~~f. Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~g. Archaeological and Historic Sites.~~

(v) Other

~~Where the following types of lands are included in a proposed development and will not be dedicated to the City or included in private Open Space, the development plan shall be arranged so that every proposed Lot has a Building Envelope meeting the other design standards of this Code without encroaching on the designated sensitive lands:~~

- ~~a. Floodways;~~
- ~~b. Floodplain outside the Floodway, based on 100 year storm;~~
- ~~c. Jurisdictional Wetlands;~~
- ~~d. Stream Corridors;~~
- ~~e. Stand of Mature Trees or Individually Significant Mature Trees;~~
- ~~f. Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~g. Archaeological and Historic Sites.~~

~~**F Applicability of Environmental Design Standards –**~~

(4). Effect of Protection Standards on Development Intensity or Density

~~Where the following types of lands~~ ***listed in Section 20-1101(d)(2)(i)*** are included in a proposed development, that land, ~~or a portion of that land,~~ may be included in determining the allowable Density or intensity of development ***and the allowable density, calculated on the total land area, may be transferred to other developable portions of the property.***

~~in accordance with the following table. The percentage appearing in a cell at the intersection of a type of sensitive land and its proposed disposition shall be multiplied by the land area of that site to determine the land area which may be considered in the computation of the allowed Density or intensity of development:~~

Sensitive Land Features	Proposed for Dedication of Open Space	Percentage for Density Calculation
Floodways	100%	50%
Floodplains outside the Floodway, based on 100 year storm	50%	10%
Stream Corridors beyond Floodways	100%	50%
Jurisdictional Wetland	50%	10%
Stand of Mature Trees	100%	100%
Prominent Geographic Features and Rocky Outcroppings	50%	10%
Archaeological and Historic Sites	100%	50%

(e) *Density Bonus Incentives for Protection of Additional Lands*

Density bonuses are available to encourage the protection of environmentally sensitive lands in a greater amount than required.

(1). Applicability

A development shall qualify for a density bonus if environmentally sensitive areas noted in this Section are committed for preservation either through designation as a tract, through a conservation or landscape easement, or dedication to the City in addition to the area required in Section 20-1101(d)(3)(a).

(i) Native prairie remnants and/or slopes of 25% or greater can be included in the protected lands for this incentive, provided the required area being protected with features listed in Section 20-1101(d)(2)(i) equals or exceeds 20% of the total developable area.

(1) ***Approval Criteria***

(i) In addition to these regulations, development on properties with certain environmentally sensitive lands, such as the regulatory floodway, may be restricted by state or federal regulations.

(ii) In order for a density bonus to be approved, City planning staff must determine that utilities and infrastructure are available to serve the additional density proposed and the design of the development does not negatively impact adjacent properties.

(iii) Land offered for dedication shall be subject to approval by the Governing Body.

(2) ***Density Bonus -- Increase in Number of Dwelling Units.***

(i) Determination of Base Density.

The Base Density, the number of dwelling units which can be developed on a property, will be determined from a 'concept plat' or sketch plan provided by the applicant which shows the basic street layout and rights-of-way, the areas necessary for stormwater detention (based on an approved conceptual drainage study), the 20% of the site which is being protected with environmentally sensitive lands, and proposed lot layout in conformance with density and dimensional standards in Section 20-601.

(ii) Determination of Density Bonus.

If the density bonus meets the criteria noted in Section 20-1101(e)(1), the density bonus to be applied to the base density shall be calculated using the proportions in Table 1.

- a. The density may exceed the Density Cap in multi-dwelling districts.*
- b. The density may equal but may not exceed the Density Cap for single-family and duplex districts.*
- c. Density Caps set by the Comprehensive Plan are noted in Table 2.*

20-1101(e) TABLE 1			
Density Bonus—Increase in number of dwelling units			
% of property that is protected	% increase in Dwelling Units	% of property that is protected	% increase in Dwelling Units
21	1	31	11
22	2	32	12
23	3	33	13
24	4	34	14
25	5	35	15
26	6	36	16
27	7	37	17
28	8	38	18
29	9	39	19
30	10	40	20

20-1101(e) TABLE 2			
Density Cap per Zoning District			
Comprehensive Plan Designation	Density Cap Horizon 2020 (du/acre)	Zoning District	Max. Density per Code (du/acre)
Very-low density: single dwelling	1	RS40	1.09
Low-density: single dwelling	2-6	RS20	2.18
		RS10	4.26
		RS7	6.22
Medium density: single dwelling	7-15	RS5	8.7
		RS3	14.52
		RSO	14.52
Medium density: multi dwelling	7-15	RM12,	12
		RM12D,	12
		RM15	15
High-density: multi-dwelling	16-21 du / acre	RM24,	24 du / acre
		RM32	32 du / acre

(iii) Standards Adjustment

a. In single-dwelling and duplex-dwelling zoning districts, it may be necessary to reduce the lot area and/or lot width requirements to permit the allowable density. These modifications may be made to the minimum degree necessary to accommodate the allowable density.

b. In multi-dwelling districts, it may be necessary to increase the height limitation, in addition to adjustments to the lot area and/or lot width requirements, to permit the allowable density. These modifications may be made to the minimum degree necessary to accommodate the allowable density.

(3). Density Bonus -- Increase in Developable Square Footage.
This bonus permits the construction of larger structures, and/or the addition of more impervious surface on a lot, rather than an increase in the number of dwelling units. The proportions listed in Table 3 apply to the increase in developable square footage. Each 1% of protected environmentally sensitive lands protected above that required by Code results in a 1% increase in the building or impervious surface coverage up to a maximum of 40%. (In no case shall the building coverage or impervious surface coverage exceed 90% of the lot).

20-1101(e)-TABLE 3						
<i>Density Bonus — Increase in Developable Area</i>						
<i>Zoning District</i>	<i>Maximum Building Coverage (%)</i>	<i>Maximum Impervious Coverage (%)</i>	<i>Min Outdoor Area per Dwelling (sq ft)</i>	<i>Int Side Setback (ft)</i>	<i>Front Setback (ft)</i>	<i>Rear setback (ft) Single frontage / double frontage</i>
RS40	15	25	--	20	25	30/35
RS20	30	50	--	20	25	30/35
RS10	40	70	--	10	25	30/25
RS7	45	70	--	5	25	30/25
RS5	50	75	240	5	20	20/25
RS3	50	75	150	5	15	20/25
RSO	50	75	--	5	25	20/25
RM12D	50	75	50	5	25	20/25
RM12	50	75	50	5	25	20/25
RMO	50	75	50	5	25	20/25
RM15	50	75	50	5	25	25/25
RM24	50	75	50	5	25	20/25
RM32	60	80	50	5	25	20/25
*	1% increase	1% increase	1% decrease	Adjusted as needed --not less than 5	Adjust as needed—not less than 15	Adjust as needed—not less than 15

* for each 1% protection above the required 20% (to maximum of 40%)

(i) Standards Adjustment

In some cases the minimum outdoor area or setbacks may need to be reduced to accommodate the additional building or impervious surface coverage. This reduction may be made to the minimum degree necessary to accommodate the additional building or impervious surface coverage.

(f) Sensitive Areas Site Plan Required Process

Prior to development on ~~tracts or portions of tracts of land where~~ ***containing more than 500 square feet of environmentally sensitive lands*** ~~features listed in Section 20-1101(d)(2)(i) specified above exist,~~ a Sensitive Areas Site Plan shall first be submitted to and approved by the City in accordance with the requirements of Site Plan Review Section 20-1305 ***including the public notice procedures of Section 20-1305(g).*** ~~This application~~

~~process may occur as part of a Planned Development overlay zoning and/or subdivision review.~~

(1) Sensitive Areas Site Plan Contents

The Sensitive Areas Site Plan must be prepared in accordance with the requirements in Section 20-1305(f) with the exception that a Sensitive Areas Site Plan is not required to be completed by an engineer, architect or other qualified professional. In addition to the contents noted in Section 20-1305(f), the site plan shall:

- (i) Clearly delineate the property boundaries.***
- (ii) Clearly delineate the boundaries of the environmentally sensitive lands listed in Section 20-1101(d)(2)(i).***
- (iii) Designate protected lands per the priority order in Section 20-1101(d)(2)(i).***
- (iv) Provide information on the ownership and maintenance responsibility for the protected lands.***
- (v) Provide information on the methods to be used to protect environmentally sensitive lands, both during construction and after.***

[Followed by remainder of Article 11.]

ARTICLE 17

Proposed revisions to definitions in Section 20-1701:

Common Open Space: ~~A Parcel of Land, water body, water course, or drainageway within a *development* site designated for a Planned Development or Cluster Housing Project, that is designed and intended for the use or enjoyment of all the residents and Landowners of the Planned Development or Cluster Housing Project. Common Open Space, except for Common Open Space designated as *Environmentally Sensitive Lands* Natural Open Space, may contain such supplementary Structures and improvements as are necessary and appropriate for the benefit and enjoyment of all the residents and Landowners of the Planned Development or Cluster Housing Project. Common open space shall not include space devoted to streets, alleys, or parking areas. While required setbacks may function as common open space, they may not be used to meet the minimum requirements.~~

Jurisdictional Wetland: *Wetlands which are regulated by Section 404 of the Clean Water Act and are under the regulatory jurisdiction of the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA).*

~~Wetlands: Any parcel or portion of a parcel which meets the state or federal definition of Wetlands that are under the jurisdiction of state or federal laws. Synonymous with 'jurisdictional wetland'.~~

Prominent Geographic Feature with Rocky Outcropping: ~~surrounding Grade and covering an area of one (1) or more acres. Exposed rock area is 50% or more limestone or sandstone.~~

Stream Corridor: A strip of land 100 feet wide, of which the centerline shall be the centerline of a stream that is not an intermittent stream or an intermittent stream specifically identified in the Comprehensive Plan as a significant intermittent stream subject to protection. *ephemeral stream: a stream where flow occurs for only a short time after extreme storms and does not have a well-defined channel, similar to a drainage way.*

Mature Trees, Stand of: An area of ½ acre (*21,780 sq ft*) or more located on the 'development land area', per Section 20-1101(d)(2)(ii) *or on other contiguous residencially zoned properties* covered by densely wooded growth of mature *containing* trees having a minimum height of *that are* 25 feet *or more in height, or are greater than 8" caliper, in an amount adequate to form a continuous or nearly continuous canopy. (Canopy may be determined from resources such as, but not limited to, NAIP, National Agricultural Imaging Program; City/County GIS aeriels; and field surveys.)*

Base Density: *The number of dwelling units that can be developed on a subject property, rather than the number of dwelling units that are permitted for the zoning district. Base density is the number of dwelling units that can be developed given the size of the parcel, the area required for street rights-*

of-way or infrastructure, the density and dimensional standards of Section 20-601(a), the environmental protection standards, as well as topographical or other features unique to the property.

Density Bonus: An incentive-based tool that permits property owners to increase the maximum allowable development on a property in exchange for helping the community achieve public policy goals, such as protection of environmentally sensitive areas.

Density Cap: Maximum density levels set by the Comprehensive Plan. Low-density (6 dwelling units per acre); medium density (15 dwelling units per acre) and high density (24 dwelling units per acre).

ARTICLE 7. PLANNED DEVELOPMENTS

- 20-701 PD, Planned Development Overlay District**
20-702 Cluster Housing Projects
20-703 Open Space Standards in Cluster and Planned Developments

20-701 PLANNED DEVELOPMENT OVERLAY DISTRICT

(a) Purpose

The PD, Planned Development regulations are intended to:

- (1) ensure development that is consistent with the Comprehensive Plan;
- (2) ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services;
- (3) allow design flexibility that results in greater public benefits than could be achieved using conventional Zoning District regulations;
- (4) preserve environmental and historic resources; and
- (5) promote attractive and functional residential, nonresidential, and mixed-use developments that are compatible with the character of the surrounding area.

(b) Procedure

PDs shall be reviewed and approved in accordance with the procedures of Section 20-1304.

(c) Developer's Statement of Intent

Each PD application shall include a comparison of the proposed development with the standards of the Base District and the otherwise applicable standards of this Development Code. Applications shall also include a Statement by the applicant describing how the proposed development provides greater benefits to the City than would a development carried out in accordance with otherwise applicable Development Code standards.

(d) Effect of Other Development Code Standards

Except as expressly authorized by the regulations of this section and approved as part of a PD plan (in accordance with the procedures of Section 20-1304), all of the standards of this Development Code apply to development within a PD District.

(e) Minimum District Size

Minimum area for a PD district shall be five acres.

(f) Standards Eligible for Modification

As a condition of approval, the Planning Commission or City Commission may designate by ordinance or as a note on the face of the development plan, any specific use, Structure or Building Type which shall be restricted and excluded as part of the Planned Development Overlay District. The City Commission may modify the following standards during the PD approval process. Standards not listed are not eligible for modification.

(1) Allowed Uses

The Planning Commission shall recommend, and the City Commission shall approve, a list of uses allowed in a PD at the time of PD preliminary approval. Regardless of the fact that the approved uses may be determined by reference to a Base District, the list of approved uses shall be incorporated into and made a condition of the PD approval. The City Commission may approve only uses that are allowed in the Base District, provided that:

- (i) PDs in Single-Dwelling and Multi-Dwelling (RS and RM) Districts may include land area for commercial uses at a ratio of up to 50 square feet of land area per Dwelling Unit.
- (ii) commercial uses, in addition to those otherwise permitted by right, may be approved in a PD in an RS or RM District, if the PD includes a minimum area of 10 acres or more than 100 Dwelling Units.

(2) Lot Size

The minimum Lot size standards of the Base District may be reduced by the City Commission, provided that Lot sizes shall be adequate to safely accommodate all proposed Buildings and site features.

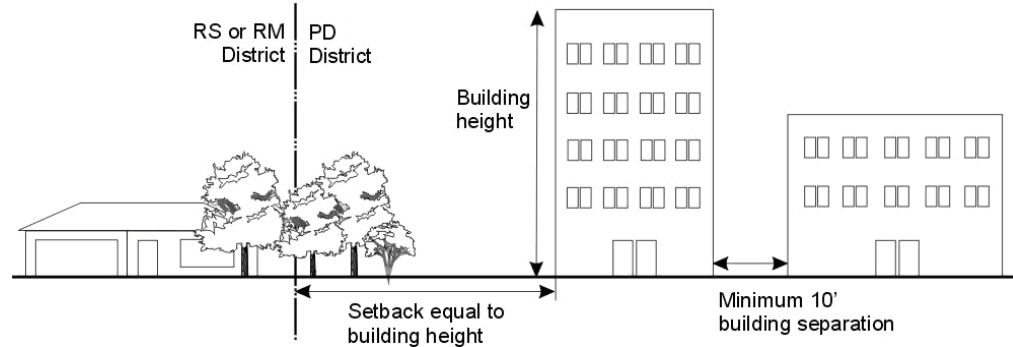
(3) Residential Density

The City Commission may increase the maximum Net Density beyond that of the Base District by up to 25% if the City Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development.

(4) Setbacks

The minimum Setback standards of the Base District may be reduced by the City Commission, provided that:

- (i) Buildings located within the PD, and along any District boundary that is adjacent to RS and or RM Zoning Districts shall be Setback a distance at least equal to the Height of the proposed Building; and
- (ii) All exterior walls of detached Buildings shall be separated by a minimum distance of 10 feet.
- (iii) Balconies shall not be located along peripheral site Setbacks adjacent to RS zoned properties unless privacy Screening and Landscaping is included in the design.



(g) Height

The City Commission may increase maximum Height limits of the Base District if the Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development. Height increases shall be permitted only for Buildings set back from the boundary of the PD by the Height of the proposed Building plus 25 feet, so that the primary impact of the increased Height is on property within the PD.

(h) Balconies

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a Planned Development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum Height) or a masonry wall (6' minimum Height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(i) Parking and Loading

The City Commission may decrease the number of off-Street Parking and loading spaces required. Parking and loading areas shall comply with all otherwise applicable design standards.

(j) Buffer Areas

Development within 60 feet of the peripheral boundary of the PD shall be limited to the following:

- (1) use category, Heights, Setbacks and minimum Lot sizes permitted in the Zoning District immediately adjoining the proposed PD on the date of preliminary development plan approval of the PD; and
- (2) a landscaped buffer, including a Berm (minimum 4' in Height), a masonry wall (minimum of 6' in Height) or a fence (minimum 6' in Height).

(k) Common Open Space

(1) Amount Required

The PD shall include at least 20% of the total site area as Common Open Space. Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 50% of the Common Open Space shall be developed as Recreational Open Space unless environmentally sensitive lands are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the

Common Open Space, with the intent being to preserve all or as much environmentally sensitive lands as possible in their natural state.

(2) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a PD or Cluster Development.

(1) Additional Requirements and Standards

(1) Unified Control

No application for a PD will be accepted or approved unless all of the property included in the application is under unified Ownership or a single entity's control.

(2) Street Access

PDs that will generate 100 or more average daily trips (based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual, 7th edition, or subsequent edition, or based on local estimates provided by the City) shall have Access to an Arterial Street using a Frontage or rear Access road or by taking direct Access to a Collector Street.

Individual residential Building Lot shall not take direct Access to an Arterial Street or a non-Residential Collector Street. Each individual residential Lot shall have Frontage on a public or Private Street that has been constructed to the Public Street standards of the City.

(3) Sidewalks

Sidewalks built to City specifications shall be built along both sides of all public and Private Streets. On Local Streets, sidewalks shall be at least 5 feet in width; on all other Streets sidewalks shall be at least 6 feet in width.

(4) Landscaping

The Landscaping and Screening standards of Article 10 apply to PDs. In addition, any part of the development area not used for Buildings, Structures, Parking, Streets, or Accessways shall be landscaped with a sufficient mixture of grass, vegetative Ground Cover, trees, and Shrubs, except those areas designated to be preserved with natural vegetation.

(5) Preservation of Natural Features

Mature stands of trees or individually significant mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. At a minimum the common open space provisions in this section and the standards of Article 10 apply.

(6) Zoning Map

Approved PDs shall be identified on the Official Zoning District Map.

(7) Additional Conditions

The Planning Commission may recommend, and the City Commission may impose, other reasonable conditions and standards, as deemed necessary to ensure consistency with the purposes of this section and those of this Development Code. Such conditions may include limitations on the types of uses, Structures or Building Types to be allowed in the PD. When such

conditions are imposed, an application will not be deemed approved until the applicant has complied with all of the conditions of approval.

(m) **Additional Standards for PD's with Residential and Nonresidential Uses**
In PDs containing both residential and nonresidential uses, the nonresidential uses shall be designed, located, and oriented on the site so that such uses are directly accessible to residents of the PD. For the purposes of this Section, directly accessible shall mean pedestrian/Bicycle and automobile Access by way of improved sidewalks or paths and Streets that do not involve leaving the PD or using a major Thoroughfare. "Directly accessible" does not necessarily mean that nonresidential uses need to be located in a particular location but that the siting of such uses considers the accessibility of the residential component of the PD to the nonresidential use.

20-702 CLUSTER HOUSING PROJECTS

(a) Purpose

The cluster housing regulations of this section have several potential public benefits. They:

- (1) provide flexible development options where the standard Lot and Block pattern is not practical because of physical constraints;
- (2) promote the preservation of open space and natural areas;
- (3) allow for grouping of development on a portion of the site while using the entire site area to calculate Density of the Base District.
- (4) support reductions in development costs.

(b) General

- (1) A Cluster Housing Project is a subdivision containing five (5) or more detached Dwellings each on its own Lot with some or all of the Lots reduced below required minimum Lot Area and width requirements, but where the overall project complies with the maximum Density standard of the Base District. Cluster Housing Projects require that planning for Lots and the locations of houses on the Lots be done at the same time. Because the allowable Building Envelope of each house is predetermined, greater flexibility in development standards is possible while assuring that the single-Dwelling character of the Zoning District is maintained.
- (2) Under the cluster housing option, a subdivision can contain no more Lots than would otherwise be allowed for a conventional subdivision in the same Zoning District, but the individual Lots within the development can be smaller than required in a conventional subdivision. Smaller Lot sizes within a Cluster Housing Project are required to be offset by a corresponding increase in Common Open Space.

(c) Where Allowed; Procedure

Cluster Housing Projects are allowed by right in all residential Zoning Districts and in the CN1 District, as provided below.

-
- (1) In RS Districts and the CN1 District, Cluster Housing Projects shall not include more than 35 Dwelling Units. Larger projects in said Districts are subject to the Planned Development regulations of Section 20-701 and shall be reviewed and approved in accordance with the procedures of Section 20-1304.
 - (2) Cluster Housing Projects allowed by-right will be evaluated for compliance with applicable regulations and reviewed and approved in accordance with the subdivision procedures of Article 8 review process.

(d) Lot Area and Lot Width Requirements

There are no minimum Lot Area or Lot Width requirements for Cluster Housing Projects. Lots shall be adequate to meet all applicable standards of this Development Code.

(e) Housing Types

Detached Dwelling Units on individual Lots are the only type of housing allowed in a Cluster Housing Project. The proposed Building Envelope for all houses shall be shown on the subdivision plat with enough detail so that compliance with required Density and Dimensional Standards can be determined.

(f) Setbacks

- (1) A Setback equal to the minimum Front Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is adjacent to any Street or right-of-way.
- (2) A Setback equal to the minimum Rear Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is not adjacent to any Street or right-of-way.
- (3) Within the project, the distance between houses shall be at least 10 feet (to be measured in accordance with the Setback measurement provisions of Section 20-602(e)).

(g) Building Coverage

The Building coverage standards of the Base District do not apply to each individual Lot, but the total Building coverage of all Lots (in aggregate) may not exceed the maximum Building coverage standard of the Base District.

(h) Outdoor Area

The required minimum outdoor area standard per Dwelling Units of 240 Sq. Ft. shall be on each Lot.

(i) Common Open Space

(1) Amount Required

The Cluster Housing Project shall include at least 10% of the total site area as Common Open Space.

Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 30% of the Common Open Space shall be developed as Recreational Open Space, unless environmentally sensitive lands

are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the Common Open Space, with the intent being to preserve all or as much environmentally sensitive

(2) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a Planned Development or Cluster Housing Project.

20-703 OPEN SPACE STANDARDS IN CLUSTER AND PLANNED DEVELOPMENTS

(a) Preservation Required

The Open Space land shall be preserved and maintained solely for the purposes specified in this Section and in such a manner as may be acceptable to the City Commission. The method for accomplishing such preservation and maintenance of Open Space land shall be limited to one of the following:

- (1) establishment of a mandatory-membership homeowner's association to own and maintain the land in common for the Open Space purposes intended; or
- (2) transfer of the land to a conservation trust or an institution, person, organization or other conservation-oriented entity together with the requisite requirements for maintenance of the land for the Open Space purposes intended; or
- (3) dedication of the land to the City with executed deed restrictions that the City is party to, which ensure the land shall remain as dedicated open space, subject to City Commission acceptance of such dedication.

(b) Execution of Instruments

The City Commission shall require the Developer or Owner of the Open Space land to execute, acknowledge and file at the Register of Deeds office such maps and documents as, in the opinion of the Director of Legal Services, will effectively create a trust, Easement or covenant running with the land, for the benefit of the property owners in the development and of the City, which:

- (1) will be binding on all future Owners of the Open Space land;
- (2) will not be affected by any subsequent changes in zoning;
- (3) may be enforced by property owners in the development or the City by appropriate action in court for damage or equitable relief;
- (4) will be perpetual;
- (5) will assure appropriate maintenance of the Open Space land to the satisfaction of the City Commission;
- (6) shall provide that if maintenance, preservation and/or use of the Open Space land no longer complies with the provisions of the trust, Easement

or covenant, the City may take all necessary actions to effect compliance and assess the costs against the Owner in default;

- (7) shall provide that such trust, Easement or covenant may not be modified, altered, amended, or changed without written approval of the City Commission, and all beneficiary property Owners in the PD or Cluster Housing Project except in the case of City-owned land in which case deed restrictions shall be binding.

ARTICLE 11. GENERAL DEVELOPMENT STANDARDS

20-1101	Protection Standards for Residential Districts
20-1102	Intersection Visibility
20-1103	Outdoor Lighting
20-1104	Performance Agreements; Guarantees
20-1105	Sidewalks
20-1106	Agreement Not to Protest Formation of a Benefit District
20-1107	Retail Market Impact Analysis
20-1108	General Development Standards for Mixed Use(MU) Districts

20-1101 PROTECTION STANDARDS FOR RESIDENTIAL DISTRICTS**(a) Design and Operational Compatibility Standards—Discretionary Approvals**

As a condition of approval of any Special Use Permit, Map Amendment, site plan or other discretionary approval of any multi-Family use or nonresidential use located within 500 feet of any less intensive residential district, the City Commission, Planning Director, Planning Commission or other review body may impose conditions that exceed the minimum requirements of this Chapter and that, in the opinion of the review body, are necessary to reduce or minimize any potentially adverse impacts on residential property, including, but not necessarily limited to, the following:

- (1) location on a site of activities that generate potential adverse impacts on adjacent uses, such as noises and glare;
- (2) placement and buffering of trash receptacles;
- (3) location of loading and delivery areas;
- (4) lighting location, intensity, and hours of illumination;
- (5) placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;
- (6) additional Landscaping and buffering;
- (7) Height restrictions to preserve light and privacy and views of significant features as viewed from public property and rights-of-way;
- (8) preservation of natural lighting and solar Access;
- (9) ventilation and control of odors and fumes; and
- (10) paving or other surface treatment for dust control.

(b) Height Limit on Projects Adjoining Certain Residential Zoning Districts

See Section 20-701(g) for Height limits in the PD district.

(c) Balconies of a multi-Dwelling Unit Building

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a RM development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum height) or a masonry wall

(6' minimum height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(d) **Standards for Environmentally Sensitive Lands**

(1) **Applicability**

The provisions of this Article regarding environmental protection for sensitive lands shall apply to all construction and development in all RS and RM Districts, with the exception of individually platted lots for single or duplex dwellings which were platted prior to (the effective date of this Text Amendment).

(2) **Environmentally Sensitive Lands**

(i) **Protected Areas.**

If 500 sq ft or more of a proposed development consists of lands falling in the following categories, any proposed development may proceed only in accordance with the processes allowed by this section. The lands affected by this section are listed below in a priority order for protection:

- a. Regulatory Floodway, designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the City GIS Baseline Environmentally Sensitive Areas Map;
- b. Regulatory Floodway Fringe, designated on the FEMA Flood Insurance Rate Map for Douglas County based on 100 year storm and identified on the City GIS Baseline Environmentally Sensitive Areas Map,
- c. Jurisdictional Wetlands, as determined by the Army Corps of Engineers.
- d. Stream Corridors as defined in this Code and identified on the City GIS Baseline Environmentally Sensitive Areas Map
- e. Stands of Mature Trees as defined in this Code and identified on the City GIS Baseline Environmentally Sensitive Areas Map; and
- f. Archaeological and Historic Sites listed on local, state, or federal registers.

(ii) **Determination of Development Land Area**

In determining whether a portion of a proposed development consists of sensitive lands, all contiguous lands under the same Ownership or control shall be considered. Lands owned or controlled by a partnership, trust or corporation under the same effective control shall be considered, along with lands owned directly by the applicant and lands under option to the applicant or a partnership, trust or corporation under the effective control of the applicant.

(3) **Protection Standards**

(i) **Amount Required**

The minimum amount of environmentally sensitive lands which are required to be protected in Planned Developments and Cluster Housing Projects are noted in Sections 20-701 and 20-702 respectively. For other types of developments, required protection of environmentally sensitive lands shall be limited to a

maximum protection area of 20% of the total land area. The protected environmentally sensitive lands shall be set aside as private Common Open Space or dedicated to the City as parkland or open space. Incentives for protection of environmentally sensitive lands in amounts above 20% of the total land area are included in Section 20-1101(f).

(ii) Development Process

Development on land which contains more than 500 square feet of environmentally sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(f)], and may proceed through one of the following processes:

- a. Site Planning. Development on properties containing more than 500 square feet of environmentally sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(f)], which may be consolidated with any other required site plan submitted, but will be, in any event, required prior to approval of a development proposal.
- b. Platting. Environmentally sensitive lands to be protected shall be located within tracts and/or easements. Information regarding ownership and maintenance responsibility of the tract or easement, as well as protection measures, shall be included on the preliminary and final plat.
- c. Planned Development. Development standards in Section 20-701 apply. Environmentally sensitive lands to be protected shall be included within the Common Open Space.
- d. Cluster Housing Project. Development standards in Section 20-702 apply. Environmentally sensitive lands to be protected shall be included within the Common Open Space.

4. Effect of Protection Standards on Development Density

Where the types of lands listed in Section 20-1101(d)(2)(i) are included in a proposed development, that land may be included in determining the allowable Density or intensity of development and the allowable density, calculated on the total land area, may be transferred to other developable portions of the property.

(e) Density Bonus Incentives for Protection of Additional Lands

Density bonuses are available to encourage the protection of environmentally sensitive lands in a greater amount than required.

(1) Applicability

A development shall qualify for a density bonus if environmentally sensitive areas noted in this Section are committed for preservation either through designation as a tract, through a conservation or landscape easement, or dedication to the City in addition to the area required in Section 20-1101(d)(3)(a).

- i. Native prairie remnants and/or slopes of 25% or greater can be included in the protected lands for this incentive, provided the required area being protected with features listed in Section 20-1101(d)(2)(i) equals or exceeds 20% of the total developable area.

(2) **Approval Criteria**

- (i) In addition to these regulations, development on properties with certain environmentally sensitive lands, such as the regulatory floodway, may be restricted by state or federal regulations.
- (ii) In order for a density bonus to be approved, City planning staff must determine that utilities and infrastructure are available to serve the additional density proposed and the design of the development does not negatively impact adjacent properties.
- (iii) Land offered for dedication shall be subject to approval by the Governing Body.

(3) **Density Bonus -- Increase in Number of Dwelling Units.****(i) Determination of Base Density.**

The Base Density, the number of dwelling units which can be developed on a property, will be determined from a 'concept plat' or sketch plan provided by the applicant which shows the basic street layout and rights-of-way, the areas necessary for stormwater detention (based on an approved conceptual drainage study), the 20% of the site which is being protected with environmentally sensitive lands, and proposed lot layout in conformance with density and dimensional standards in Section 20-601.

(ii) Determination of Density Bonus.

If the density bonus meets the criteria noted in Section 20-1101(e)(1), the density bonus to be applied to the base density shall be calculated using the proportions in Table 1.

- a. The density may exceed the Density Cap in multi-dwelling districts.
- b. The density may equal but may not exceed the Density Cap for single-family and duplex districts.
- c. Density Caps set by the Comprehensive Plan are noted in Table 2.

20-1101(e) -TABLE 1			
Density Bonus—Increase in number of dwelling units			
% of property that is protected	% increase in Dwelling Units	% of property that is protected	% increase in Dwelling Units
21	1	31	11
22	2	32	12
23	3	33	13
24	4	34	14
25	5	35	15
26	6	36	16
27	7	37	17
28	8	38	18
29	9	39	19
30	10	40	20

20-1101(e) - TABLE 2 Density Cap per Zoning District			
Comprehensive Plan Designation	Density Cap Horizon 2020 (du/acre)	Zoning District	Max. Density per Code (du/acre)
Very-low density: single dwelling	1	RS40	1.09
Low-density: single dwelling	2-6	RS20	2.18
		RS10	4.26
		RS7	6.22
Medium density: single dwelling	7-15	RS5	8.7
		RS3	14.52
		RSO	14.52
Medium density: multi dwelling	7-15	RM12,	12
		RM12D,	12
		RM15	15
High-density: multi-dwelling	16-21 du / acre	RM24,	24 du / acre
		RM32	32 du / acre

(iii) Standards Adjustment

- a. In single-dwelling and duplex-dwelling zoning districts, it may be necessary to reduce the lot area and/or lot width requirements to permit the allowable density. These modifications may be made to the minimum degree necessary to accommodate the allowable density.
- b. In multi-dwelling districts, it may be necessary to increase the height limitation, in addition to adjustments to the lot area and/or lot width requirements, to permit the allowable density. These modifications may be made to the minimum degree necessary to accommodate the allowable density.

(4). Density Bonus -- Increase in Developable Square Footage.

This bonus permits the construction of larger structures, and/or the addition of more impervious surface on a lot, rather than an increase in the number of dwelling units. The proportions listed in Table 3 apply to the increase in developable square footage. Each 1% of protected environmentally sensitive lands protected above that required by Code results in a 1% increase in the building or impervious surface coverage up to a maximum of 40%. (In no case shall the building coverage or impervious surface coverage exceed 90% of the lot).

(i) Standards Adjustment

In some cases the minimum outdoor area or setbacks may need to be reduced to accommodate the additional building or impervious surface coverage. This reduction may be made to the minimum degree necessary to accommodate the additional building or impervious surface coverage.

20-1101(e)-TABLE 3 Density Bonus — Increase in Developable Area						
<i>Zoning District</i>	<i>Maximum Building Coverage (%)</i>	<i>Maximum Impervious Coverage (%)</i>	<i>Min Outdoor Area per Dwelling (sq ft)</i>	<i>Int Side Setback (ft)</i>	<i>Front Setback (ft)</i>	<i>Rear setback (ft) Single frontage / double frontage</i>
RS40	15	25	--	20	25	30/35
RS20	30	50	--	20	25	30/35
RS10	40	70	--	10	25	30/25
RS7	45	70	--	5	25	30/25
RS5	50	75	240	5	20	20/25
RS3	50	75	150	5	15	20/25
RSO	50	75	--	5	25	20/25
RM12D	50	75	50	5	25	20/25
RM12	50	75	50	5	25	20/25
RMO	50	75	50	5	25	20/25
RM15	50	75	50	5	25	25/25
RM24	50	75	50	5	25	20/25
RM32	60	80	50	5	25	20/25
*	1% increase	1% increase	1% decrease	Adjusted as needed --not less than 5	Adjust as needed—not less than 15	Adjust as needed—not less than 15

* for each 1% protection above the required 20% (to maximum of 40%)

(f) Sensitive Areas Site Plan Process

Prior to development on land containing more than 500 square feet of environmentally sensitive lands listed in Section 20-1101(d)(2)(i), a Sensitive Areas Site Plan shall first be submitted to and approved by the City in accordance with the requirements of Site Plan Review Section 20-1305 including the public notice procedure of Section 20-1305(g).

(1) Sensitive Areas Site Plan Contents

The Sensitive Areas Site Plan must be prepared in accordance with the requirements in Section 20-1305(f) with the exception that a Sensitive Areas Site Plan is not required to be completed by an engineer, architect or other qualified professional. In addition to the contents noted in Section 20-1305(f), the site plan shall:

- (i) Clearly delineate the property boundaries.*
- (ii) Clearly delineate the boundaries of the environmentally sensitive lands listed in Section 20-1101(d)(2)(i).*
- (iii) Designate protected lands per the priority order in Section 20-1101(d)(2)(i).*
- (iv) Provide information on the ownership and maintenance responsibility for the protected lands.*
- (v) Provide information on the methods to be used to protect environmentally sensitive lands, both during construction and after.*

[Followed by remainder of Article 11.]

ARTICLE 17

Proposed revisions to definitions in Section 20-1701:

Common Open Space: Land, water body, water course, or drainageway within a development that is designed and intended for the use or enjoyment of all the residents and Landowners of the Development. Common Open Space, except for Common Open Space designated as Environmentally Sensitive Lands, may contain such supplementary Structures and improvements as are necessary and appropriate for the benefit and enjoyment of all the residents and Landowners of the Development. Common open space shall not include space devoted to streets, alleys, or parking areas. While required setbacks may function as common open space, they may not be used to meet the minimum requirements.

Jurisdictional Wetland: Wetlands which are regulated by Section 404 of the Clean Water Act and are under the regulatory jurisdiction of the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA).

Mature Trees, Stand of: An area of ½ acre (21,780 sq ft) or more located on the 'development land area', per Section 20-1101(d)(2)(ii) or on other contiguous residentially zoned properties, containing trees that are 25 feet or more in height, or are greater than 8" caliper, in an amount adequate to form a continuous or nearly continuous canopy. (Canopy may be determined from resources such as, but not limited to, NAIP, National Agricultural Imaging Program; City/County GIS aerials; and field surveys.)

Stream Corridor: A strip of land 100 feet wide, of which the centerline shall be the centerline of a stream that is not an ephemeral stream: a stream where flow occurs for only a short time after extreme storms and does not have a well-defined channel, similar to a drainage way.

Base Density: The number of dwelling units that can be developed on a subject property, rather than the number of dwelling units that are permitted for the zoning district. Base density is the number of dwelling units that can be developed given the size of the parcel, the area required for street rights-of-way or infrastructure, the density and dimensional standards of Section 20-601(a), the environmental protection standards, as well as topographical or other features unique to the property.

Density Bonus: An incentive-based tool that permits property owners to increase the maximum allowable development on a property in exchange for helping the community achieve public policy goals, such as protection of environmentally sensitive areas.

Density Cap: Maximum density levels set by the Comprehensive Plan. Low-density (6 dwelling units per acre); medium density (15 dwelling units per acre) and high density (24 dwelling units per acre).

Jayhawk Audubon Society
P.O. Box 3741
Lawrence, KS 66046-3741
June 21, 2010

To: Lawrence/Douglas County Metropolitan Planning Commission Chair and Members
From: Jayhawk Audubon Society
Re: Item #5: Amendments to the Development Code related to Environmentally Sensitive Areas

Dear Planning Commission Members:

Jayhawk Audubon Society has been working for more than 40 years to inform the public about the value of conserving the rich heritage of our local natural resources: our prairies, rivers and streams, forests, wetlands, agricultural lands and other natural features.

In reviewing the language of both the Draft Chapter Sixteen on Environment and the ECO² Open Space Preservation Plan, it is interesting to note that neither document refers to the regulatory floodway as needing special protection. This is true because floodways are protected by federal regulations. It would be foolish to try to build a habitable structure in a stream or river. These areas are not build-able and thus should not be included when making the calculation of the amount of "open space" in Cluster or Planned Developments. The same should be true for the 100-year regulatory floodway fringe, which is also governed by federal regulations. Therefore, although these regulations must be enforced, it seems most logical to include a "Whereas" type statement that spells out the intent to follow federal law in this regard rather than to include them as part of the Environmentally Sensitive Lands sections.

On the other hand, we totally agree that the riparian (vegetated stream side) areas, outside of the 100-year FEMA boundaries, should also be protected and included in those computations. And again, referring to the Draft Chapter Sixteen on Environment, which recognizes the many benefits of protecting riparian areas, we encourage you to adopt language that encourages the ultimate goal of a system of linked stream-side corridors throughout the city and county. Such a system provides protection for sensitive areas, affords recreational trails, enhances water quality and the aesthetics of a neighborhood and city. Furthermore such a system of linked trails closely matches and fulfills some of the Open Space goals of ECO².

Finally, although we have been following this issue for quite a while, Audubon conflicts have kept me from attending many of the hearings. We are surprised and astounded that native prairies no longer appear in the list of Environmentally Sensitive Lands to be protected. Douglas County once was more than 90% prairie according to early agricultural publications. Today, less than 5% of those prairies remain. A high-quality prairie may contain more than 200 different plant species. Once plowed, it is nearly impossible to restore it fully to its previous state. **Frankly, it seems with so few remnant prairies still in existence, all such areas should be totally protected from development.** Furthermore, other land should be added to the requirement for open space in cluster and planned development.

To omit prairies as a defined sensitive land is a significant oversight at best. We believe that there may be an error in that omission: in section 20-1101(d) (2) (page 11-2) prairie areas are not listed; however, on page 11-6, section 20-1101 (1) Applicability subsection *i* states that *Native prairie remnants and/or slopes of 25% ... can be included....* This needs to be clarified with the inclusion of prairie areas and steep slopes as part of Environmentally Sensitive Lands to be

protected. Again in both documents previously referenced, prairies are mentioned as needing preservation. We believe that the policies in the Chapter on Environment need to be realized in “on the ground” development code regulation and implementation.

We appreciate this opportunity to provide comments on this document.

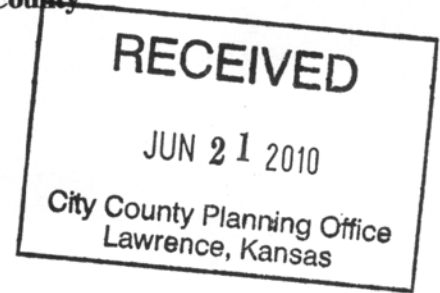
Sincerely,

Joyce A. Wolf,
Board Member of JAS

League of Women Voters of Lawrence-Douglas County
P.O. Box 1072, Lawrence, Kansas 66044

June 20, 2010

Mr. Greg Moore, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044



RE: ITEM NO. 5, TEXT AMENDMENT; ENVIRONMENTALLY SENSITIVE AREAS

Dear Chairman Moore and Planning Commissioners:

You have received many letters from us on this subject and we appreciate the changes that you have made to the proposed text amendment in response. However, we continue to have serious concerns about the current proposed revisions. Below is a summary of these concerns.

1. Environmentally sensitive areas in the city and county should be protected prior to development. There should be a means of protecting sensitive land before it is disturbed such as requiring a development permit similar to that in the Floodplain Management Regulations.
2. The Environmentally Sensitive Areas Site Plan should be submitted first. Before a development is planned, as the first stage the Environmentally Sensitive Areas Site Plan should be submitted. The maximum amount of sensitive land should be set aside and the remaining developable land then designed for development. It is too late in the design, planning and development process to submit a Sensitive Areas Site Plan immediately prior to approval.
3. Some lands are protected by other laws. The lands that by law cannot be developed—Regulatory Floodways and Jurisdictional Wetlands—should not be included in the percentage of sensitive areas that must be protected.
4. We believe that the sensitive land itself should dictate how much and, in fact, whether each tract of land can be developed. We have always questioned the policy that there should be a set minimum or maximum amount of sensitive land that should be preserved. All environmentally sensitive areas should be preserved.
5. Serious deficiencies. However you plan to revise these regulations, as written now, they have some serious deficiencies that will make them difficult to administer. These are discussed below along with suggestions for corrections.
 - a. Definition of Open Space needs correcting. Although the definition of Open Space has been corrected to exclude setbacks, it still is not clear that the Open Space does not include required space between buildings such as the 10 feet required in PDs. Open Space also should not include private streets (in PDs) or driveways (in all developments).
 - b. Regulations on Cluster Development need revision. The amount of sensitive land as Common Open Space required in Cluster Developments at only 10% is totally deficient. Cluster Development is one of the most efficient and equitable methods of providing protection for sensitive lands. When the density is calculated based on the original tract, i.e., the original number of lots permitted, which was the intention with Cluster Development, the density

does not require a bonus incentive because there is no need for a density bonus adjustment due to loss of developable land. The reason is because with protection of sensitive land there is no loss in potential number of dwellings that can be built The same number of lots are simply made smaller.

- c. Expanding the use of the Cluster Development concept. Making the lots smaller is an adjustment that is allowed for traditional development in these revised regulations. When sensitive land is present, if the density were to be calculated in the same way as that for Cluster Development, there would be no need for density bonus incentives.
- d. Problems with RM Districts. The problems that appear with density bonus incentives in multiple family developments are due largely to the staff interpretation of allowing multiple buildings on one large lot. This is an anomaly that occurs because in the Land Development Code there is no required space—such as 10 feet—between buildings in RM Districts. The exterior yards at the edge of each large multiple family lot can provide the permeable space of 25% required in the Land Development Code Section 20-601 and therefore would not add to the amount of required open space. What this does is to create the opportunity for each large lot to have such a large net density that it can be built almost to its gross density. This is where there is a “loss” of density in conventional multiple family districts by adding the 20% open space requirement for sensitive land because it allows fewer dwelling units. Please see our letter sent in April, 2010 on this issue.
- e. The deficiency of not listing other sensitive lands in the priority list. Prairies and steep slopes should be added to the priority list rather than treating them as a bonus. In addition, potential archeological and historic sites and significant but intermittent streams should also be added to the list. Actually, the priority list is an anomaly because all of these sensitive types should be preserved. Those required to be preserved by law—Regulatory Floodways and Jurisdictional Wetlands—should not be included to add to the total Open Space allotment; rather, they should be preserved over and above the allotment.

We sincerely hope that you will respond positively to our points and suggestions and make what we consider necessary changes before giving your approval. Attached is the Clear Copy of the staff proposed revisions that is annotated with our comments.

Thank you.

Sincerely yours,

Milton Scott
Vice President

Alan Black

Alan Black, Chairman
Land Use Committee

Attachment

ARTICLE 7. PLANNED DEVELOPMENTS

- 20-701 PD, Planned Development Overlay District**
20-702 Cluster Housing Projects
20-703 Open Space Standards in Cluster and Planned Developments

20-701 PLANNED DEVELOPMENT OVERLAY DISTRICT

(a) Purpose

The PD, Planned Development regulations are intended to:

- (1) ensure development that is consistent with the Comprehensive Plan;
- (2) ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services;
- (3) allow design flexibility that results in greater public benefits than could be achieved using conventional Zoning District regulations;
- (4) preserve environmental and historic resources; and
- (5) promote attractive and functional residential, nonresidential, and mixed-use developments that are compatible with the character of the surrounding area.

(b) Procedure

PDs shall be reviewed and approved in accordance with the procedures of Section 20-1304.

(c) Developer's Statement of Intent

Each PD application shall include a comparison of the proposed development with the standards of the Base District and the otherwise applicable standards of this Development Code. Applications shall also include a Statement by the applicant describing how the proposed development provides greater benefits to the City than would a development carried out in accordance with otherwise applicable Development Code standards.

(d) Effect of Other Development Code Standards

Except as expressly authorized by the regulations of this section and approved as part of a PD plan (in accordance with the procedures of Section 20-1304), all of the standards of this Development Code apply to development within a PD District.

(e) Minimum District Size

Minimum area for a PD district shall be five acres.

(f) Standards Eligible for Modification

As a condition of approval, the Planning Commission or City Commission may designate by ordinance or as a note on the face of the development plan, any specific use, Structure or Building Type which shall be restricted and excluded as part of the Planned Development Overlay District. The City Commission may modify the following standards during the PD approval process. Standards not listed are not eligible for modification.

(1) Allowed Uses

The Planning Commission shall recommend, and the City Commission shall approve, a list of uses allowed in a PD at the time of PD preliminary approval. Regardless of the fact that the approved uses may be determined by reference to a Base District, the list of approved uses shall be incorporated into and made a condition of the PD approval. The City Commission may approve only uses that are allowed in the Base District, provided that:

- (i) PDs in Single-Dwelling and Multi-Dwelling (RS and RM) Districts may include land area for commercial uses at a ratio of up to 50 square feet of land area per Dwelling Unit.
- (ii) commercial uses, in addition to those otherwise permitted by right, may be approved in a PD in an RS or RM District, if the PD includes a minimum area of 10 acres or more than 100 Dwelling Units.

(2) Lot Size

The minimum Lot size standards of the Base District may be reduced by the City Commission, provided that Lot sizes shall be adequate to safely accommodate all proposed Buildings and site features.

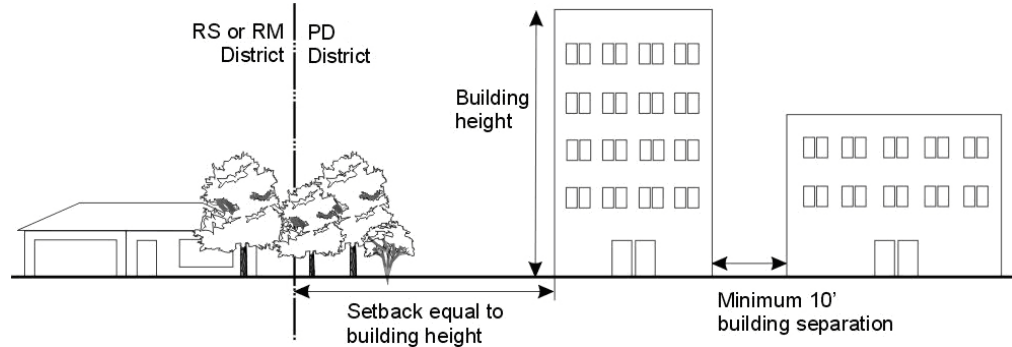
(3) Residential Density

The City Commission may increase the maximum Net Density beyond that of the Base District by up to 25% if the City Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development.

(4) Setbacks

The minimum Setback standards of the Base District may be reduced by the City Commission, provided that:

- (i) Buildings located within the PD, and along any District boundary that is adjacent to RS and or RM Zoning Districts shall be Setback a distance at least equal to the Height of the proposed Building; and
- (ii) All exterior walls of detached Buildings shall be separated by a minimum distance of 10 feet.
- (iii) Balconies shall not be located along peripheral site Setbacks adjacent to RS zoned properties unless privacy Screening and Landscaping is included in the design.



(g) Height

The City Commission may increase maximum Height limits of the Base District if the Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development. Height increases shall be permitted only for Buildings set back from the boundary of the PD by the Height of the proposed Building plus 25 feet, so that the primary impact of the increased Height is on property within the PD.

(h) Balconies

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a Planned Development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum Height) or a masonry wall (6' minimum Height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(i) Parking and Loading

The City Commission may decrease the number of off-Street Parking and loading spaces required. Parking and loading areas shall comply with all otherwise applicable design standards.

(j) Buffer Areas

Development within 60 feet of the peripheral boundary of the PD shall be limited to the following:

- (1) use category, Heights, Setbacks and minimum Lot sizes permitted in the Zoning District immediately adjoining the proposed PD on the date of preliminary development plan approval of the PD; and
- (2) a landscaped buffer, including a Berm (minimum 4' in Height), a masonry wall (minimum of 6' in Height) or a fence (minimum 6' in Height).

(k) Common Open Space

(1) Amount Required

The PD shall include at least 20% of the total site area as Common Open Space. Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 50% of the Common Open Space shall be developed as Recreational Open Space unless environmentally sensitive lands are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the

Common Open Space, with the intent being to preserve all or as much environmentally sensitive lands as possible in their natural state.

(2) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a PD or Cluster Development.

(1) Additional Requirements and Standards

(1) Unified Control

No application for a PD will be accepted or approved unless all of the property included in the application is under unified Ownership or a single entity's control.

(2) Street Access

PDs that will generate 100 or more average daily trips (based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual, 7th edition, or subsequent edition, or based on local estimates provided by the City) shall have Access to an Arterial Street using a Frontage or rear Access road or by taking direct Access to a Collector Street.

Individual residential Building Lot shall not take direct Access to an Arterial Street or a non-Residential Collector Street. Each individual residential Lot shall have Frontage on a public or Private Street that has been constructed to the Public Street standards of the City.

(3) Sidewalks

Sidewalks built to City specifications shall be built along both sides of all public and Private Streets. On Local Streets, sidewalks shall be at least 5 feet in width; on all other Streets sidewalks shall be at least 6 feet in width.

(4) Landscaping

The Landscaping and Screening standards of Article 10 apply to PDs. In addition, any part of the development area not used for Buildings, Structures, Parking, Streets, or Accessways shall be landscaped with a sufficient mixture of grass, vegetative Ground Cover, trees, and Shrubs, except those areas designated to be preserved with natural vegetation.

(5) Preservation of Natural Features

Mature stands of trees or individually significant mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. At a minimum the common open space provisions in this section and the standards of Article 10 apply.

(6) Zoning Map

Approved PDs shall be identified on the Official Zoning District Map.

(7) Additional Conditions

The Planning Commission may recommend, and the City Commission may impose, other reasonable conditions and standards, as deemed necessary to ensure consistency with the purposes of this section and those of this Development Code. Such conditions may include limitations on the types of uses, Structures or Building Types to be allowed in the PD. When such

conditions are imposed, an application will not be deemed approved until the applicant has complied with all of the conditions of approval.

(m) **Additional Standards for PD's with Residential and Nonresidential Uses**
In PDs containing both residential and nonresidential uses, the nonresidential uses shall be designed, located, and oriented on the site so that such uses are directly accessible to residents of the PD. For the purposes of this Section, directly accessible shall mean pedestrian/Bicycle and automobile Access by way of improved sidewalks or paths and Streets that do not involve leaving the PD or using a major Thoroughfare. "Directly accessible" does not necessarily mean that nonresidential uses need to be located in a particular location but that the siting of such uses considers the accessibility of the residential component of the PD to the nonresidential use.

20-702 CLUSTER HOUSING PROJECTS

(a) Purpose

The cluster housing regulations of this section have several potential public benefits. They:

- (1) provide flexible development options where the standard Lot and Block pattern is not practical because of physical constraints;
- (2) promote the preservation of open space and natural areas;
- (3) allow for grouping of development on a portion of the site while using the entire site area to calculate Density of the Base District.
- (4) support reductions in development costs.

(b) General

- (1) A Cluster Housing Project is a subdivision containing five (5) or more detached Dwellings each on its own Lot with some or all of the Lots reduced below required minimum Lot Area and width requirements, but where the overall project complies with the maximum Density standard of the Base District. Cluster Housing Projects require that planning for Lots and the locations of houses on the Lots be done at the same time. Because the allowable Building Envelope of each house is predetermined, greater flexibility in development standards is possible while assuring that the single-Dwelling character of the Zoning District is maintained.
- (2) Under the cluster housing option, a subdivision can contain no more Lots than would otherwise be allowed for a conventional subdivision in the same Zoning District, but the individual Lots within the development can be smaller than required in a conventional subdivision. Smaller Lot sizes within a Cluster Housing Project are required to be offset by a corresponding increase in Common Open Space.

(c) Where Allowed; Procedure

Cluster Housing Projects are allowed by right in all residential Zoning Districts and in the CN1 District, as provided below.

- (1) In RS Districts and the CN1 District, Cluster Housing Projects shall not include more than 35 Dwelling Units. Larger projects in said Districts are subject to the Planned Development regulations of Section 20-701 and shall be reviewed and approved in accordance with the procedures of Section 20-1304.
- (2) Cluster Housing Projects allowed by-right will be evaluated for compliance with applicable regulations and reviewed and approved in accordance with the subdivision procedures of Article 8 review process.

(d) Lot Area and Lot Width Requirements

There are no minimum Lot Area or Lot Width requirements for Cluster Housing Projects. Lots shall be adequate to meet all applicable standards of this Development Code.

(e) Housing Types

Detached Dwelling Units on individual Lots are the only type of housing allowed in a Cluster Housing Project. The proposed Building Envelope for all houses shall be shown on the subdivision plat with enough detail so that compliance with required Density and Dimensional Standards can be determined.

(f) Setbacks

- (1) A Setback equal to the minimum Front Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is adjacent to any Street or right-of-way.
- (2) A Setback equal to the minimum Rear Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is not adjacent to any Street or right-of-way.
- (3) Within the project, the distance between houses shall be at least 10 feet (to be measured in accordance with the Setback measurement provisions of Section 20-602(e)).

(g) Building Coverage

The Building coverage standards of the Base District do not apply to each individual Lot, but the total Building coverage of all Lots (in aggregate) may not exceed the maximum Building coverage standard of the Base District.

(h) Outdoor Area

The required minimum outdoor area standard per Dwelling Units of 240 Sq. Ft. shall be on each Lot.

(i) Common Open Space

- (1) Amount Required
The Cluster Housing Project shall include at least ~~10%~~ ^{20%} of the total site area as Common Open Space.

Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 30% of the Common Open Space shall be developed as Recreational Open Space, unless environmentally sensitive lands

At a minimum, here the environmentally sensitive lands should be in addition to the minimum required open space if the Common Open Space remains at the minimal 10%.

are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the Common Open Space, with the intent being to preserve all or as much environmentally sensitive **land as possible. (Please complete the sentence.)**

(2) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a Planned Development or Cluster Housing Project.

20-703 OPEN SPACE STANDARDS IN CLUSTER AND PLANNED DEVELOPMENTS

(a) Preservation Required

The Open Space land shall be preserved and maintained solely for the purposes specified in this Section and in such a manner as may be acceptable to the City Commission. The method for accomplishing such preservation and maintenance of Open Space land shall be limited to one of the following:

- (1) establishment of a mandatory-membership homeowner's association to own and maintain the land in common for the Open Space purposes intended; or
- (2) transfer of the land to a conservation trust or an institution, person, organization or other conservation-oriented entity together with the requisite requirements for maintenance of the land for the Open Space purposes intended; or
- (3) dedication of the land to the City with executed deed restrictions that the City is party to, which ensure the land shall remain as dedicated open space, subject to City Commission acceptance of such dedication.

(b) Execution of Instruments

The City Commission shall require the Developer or Owner of the Open Space land to execute, acknowledge and file at the Register of Deeds office such maps and documents as, in the opinion of the Director of Legal Services, will effectively create a trust, Easement or covenant running with the land, for the benefit of the property owners in the development and of the City, which:

- (1) will be binding on all future Owners of the Open Space land;
- (2) will not be affected by any subsequent changes in zoning;
- (3) may be enforced by property owners in the development or the City by appropriate action in court for damage or equitable relief;
- (4) will be perpetual;
- (5) will assure appropriate maintenance of the Open Space land to the satisfaction of the City Commission;
- (6) shall provide that if maintenance, preservation and/or use of the Open Space land no longer complies with the provisions of the trust, Easement

or covenant, the City may take all necessary actions to effect compliance and assess the costs against the Owner in default;

- (7) shall provide that such trust, Easement or covenant may not be modified, altered, amended, or changed without written approval of the City Commission, and all beneficiary property Owners in the PD or Cluster Housing Project except in the case of City-owned land in which case deed restrictions shall be binding.

Aside from the general criticisms that the sensitive land should be identified first and set aside as undevelopable, and the process and development should be designed around saving it, there are some new points that this version raises:

1. The cluster development provides one of the easiest methods to preserve sensitive land.
2. The system automatically provides a bonus because the allowed density is based on lot sizes as in standard single family districts, but as the open space increases the number of dwellings originally permitted remains unchanged. Reducing the lot size but maintaining the original number of dwellings provides the bonus. The concept of "base density" and bonus units is unnecessary because there is no loss of originally allowed development units.
3. Prairies and slopes are unlikely to be preserved here because only where there are other types of sensitive land preserved first will they be preserved, and then only if the bonus provisions take effect. Prairies usually are located away from other types of sensitive land. Prairies are irreplaceable and should be preserved.
4. If a cap is to be placed on amount of sensitive land required to be preserved then the types listed here should not include those required to be preserved by other laws: Floodways, wetlands, etc. They should automatically be identified and set aside.
5. The approval process should require submittal of the sensitive lands site plan initially with the application so that the staff and developer will know before expending time and effort what land can be developed. A development should be designed around preserving the sensitive land, not the reverse.
7. Driveways should not be included in the common open space (see annotation for 20-1701).
8. Steep slopes should be on the priority list to preserve. Potential historic and archeological sites should also be included; not just those already registered (which must be preserved anyway).
9. Intermittent streams can be just as important as those flowing. It's not clear whether intermittent streams with defined channels count.

ARTICLE 11. GENERAL DEVELOPMENT STANDARDS

20-1101	Protection Standards for Residential Districts
20-1102	Intersection Visibility
20-1103	Outdoor Lighting
20-1104	Performance Agreements; Guarantees
20-1105	Sidewalks
20-1106	Agreement Not to Protest Formation of a Benefit District
20-1107	Retail Market Impact Analysis
20-1108	General Development Standards for Mixed Use(MU) Districts

20-1101 PROTECTION STANDARDS FOR RESIDENTIAL DISTRICTS**(a) Design and Operational Compatibility Standards—Discretionary Approvals**

As a condition of approval of any Special Use Permit, Map Amendment, site plan or other discretionary approval of any multi-Family use or nonresidential use located within 500 feet of any less intensive residential district, the City Commission, Planning Director, Planning Commission or other review body may impose conditions that exceed the minimum requirements of this Chapter and that, in the opinion of the review body, are necessary to reduce or minimize any potentially adverse impacts on residential property, including, but not necessarily limited to, the following:

- (1) location on a site of activities that generate potential adverse impacts on adjacent uses, such as noises and glare;
- (2) placement and buffering of trash receptacles;
- (3) location of loading and delivery areas;
- (4) lighting location, intensity, and hours of illumination;
- (5) placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;
- (6) additional Landscaping and buffering;
- (7) Height restrictions to preserve light and privacy and views of significant features as viewed from public property and rights-of-way;
- (8) preservation of natural lighting and solar Access;
- (9) ventilation and control of odors and fumes; and
- (10) paving or other surface treatment for dust control.

(b) Height Limit on Projects Adjoining Certain Residential Zoning Districts

See Section 20-701(g) for Height limits in the PD district.

(c) Balconies of a multi-Dwelling Unit Building

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a RM development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum height) or a masonry wall

(6' minimum height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(d) Standards for Environmentally Sensitive Lands

(1) Applicability

The provisions of this Article regarding environmental protection for sensitive lands shall apply to all construction and development in all RS and RM Districts, with the exception of individually platted lots for single or duplex dwellings which were platted prior to (the effective date of this Text Amendment).

(2) Environmentally Sensitive Lands

(i) Protected Areas.

If 500 sq ft or more of a proposed development consists of lands falling in the following categories, any proposed development may proceed only in accordance with the processes allowed by this section. The lands affected by this section are listed below in a priority order for protection:

- a.** Regulatory Floodway, designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the City GIS Baseline Environmentally Sensitive Areas Map;
- b.** Regulatory Floodway Fringe, designated on the FEMA Flood Insurance Rate Map for Douglas County based on 100 year storm and identified on the City GIS Baseline Environmentally Sensitive Areas Map,
- c.** Jurisdictional Wetlands, as determined by the Army Corps of Engineers.
- d.** Stream Corridors as defined in this Code and identified on the City GIS Baseline Environmentally Sensitive Areas Map
- e.** Stands of Mature Trees as defined in this Code and identified on the City GIS Baseline Environmentally Sensitive Areas Map; and
- f.** Archaeological and Historic Sites ~~listed on local, state, or federal registers.~~

(ii) Determination of Development Land Area

In determining whether a portion of a proposed development consists of sensitive lands, all contiguous lands under the same Ownership or control shall be considered. Lands owned or controlled by a partnership, trust or corporation under the same effective control shall be considered, along with lands owned directly by the applicant and lands under option to the applicant or a partnership, trust or corporation under the effective control of the applicant.

(3) Protection Standards

(i) Amount Required

The minimum amount of environmentally sensitive lands which are required to be protected in Planned Developments and Cluster Housing Projects are noted in Sections 20-701 and 20-702 respectively. For other types of developments, required protection of environmentally sensitive lands shall be limited to a

The regulatory floodway and jurisdictional wetlands by law cannot be built on or disturbed. These limitations should be enforced, but should not add to the required amount of open space protected as environmentally sensitive.

These special sites should not be limited only to those already registered.

maximum protection area of 20% of the total land area. The protected environmentally sensitive lands shall be set aside as private Common Open Space or dedicated to the City as parkland or open space. Incentives for protection of environmentally sensitive lands in amounts above 20% of the total land area are included in Section 20-1101(f).

(ii) Development Process

Development on land which contains more than 500 square feet of environmentally sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(f)], and may proceed through one of the following processes:

- a. Site Planning. Development on properties containing more than 500 square feet of environmentally sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(f)], which may be consolidated with any other required site plan submitted, but will be, in any event, required prior to approval of a development proposal.
- b. Platting. Environmentally sensitive lands to be protected shall be located within tracts and/or easements. Information regarding ownership and maintenance responsibility of the tract or easement, as well as protection measures, shall be included on the preliminary and final plat.
- c. Planned Development. Development standards in Section 20-701 apply. Environmentally sensitive lands to be protected shall be included within the Common Open Space.
- d. Cluster Housing Project. Development standards in Section 20-702 apply. Environmentally sensitive lands to be protected shall be included within the Common Open Space.

It is much too late to submit a sensitive lands site plan at the last stage before approval. It should be submitted first before the development is designed.

4. Effect of Protection Standards on Development Density

Where the types of lands listed in Section 20-1101(d)(2)(i) are included in a proposed development, that land may be included in determining the allowable Density or intensity of development and the allowable density, calculated on the total land area, may be transferred to other developable portions of the property.

(e) Density Bonus Incentives for Protection of Additional Lands

Density bonuses are available to encourage the protection of environmentally sensitive lands in a greater amount than required.

(1) Applicability

A development shall qualify for a density bonus if environmentally sensitive areas noted in this Section are committed for preservation either through designation as a tract, through a conservation or landscape easement, or dedication to the City in addition to the area required in Section 20-1101(d)(3)(a).

- i. Native prairie remnants and/or slopes of 25% or greater can be included in the protected lands for this incentive, provided the required area being protected with features listed in Section 20-1101(d)(2)(i) equals or exceeds 20% of the total developable area.

Native prairies usually exist (survive) in areas surrounded by cropland and pasture land. It would be unusual for as much as 20% of other sensitive features to be on or near the same tract. Not to include native prairie as an initial sensitive feature to be preserved is a travesty.

(2) **Approval Criteria**

Lands restricted by state or federal regulations to be protected from development should not be included in the minimum 20% of open space/ sensitive lands required to be preserved. They should be preserved over and above the minimum required.

(i) In addition to these regulations, development on properties with certain environmentally sensitive lands, such as the regulatory floodway, may be restricted by state or federal regulations.

(ii) In order for a density bonus to be approved, City planning staff must determine that utilities and infrastructure are available to serve the additional density proposed and the design of the development does not negatively impact adjacent properties.

(iii) Land offered for dedication shall be subject to approval by the Governing Body.

(3) **Density Bonus -- Increase in Number of Dwelling Units.****(i) Determination of Base Density.**

The Base Density, the number of dwelling units which can be developed on a property, will be determined from a 'concept plat' or sketch plan provided by the applicant which shows the basic street layout and rights-of-way, the areas necessary for stormwater detention (based on an approved conceptual drainage study), the 20% of the site which is being protected with environmentally sensitive lands, and proposed lot layout in conformance with density and dimensional standards in Section 20-601.

(ii) Determination of Density Bonus.

If the density bonus meets the criteria noted in Section 20-1101(e)(1), the density bonus to be applied to the base density shall be calculated using the proportions in Table 1.

- a. The density may exceed the Density Cap in multi-dwelling districts.
- b. The density may equal but may not exceed the Density Cap for single-family and duplex districts.
- c. Density Caps set by the Comprehensive Plan are noted in Table 2.

20-1101(e) -TABLE 1			
Density Bonus—Increase in number of dwelling units			
% of property that is protected	% increase in Dwelling Units	% of property that is protected	% increase in Dwelling Units
21	1	31	11
22	2	32	12
23	3	33	13
24	4	34	14
25	5	35	15
26	6	36	16
27	7	37	17
28	8	38	18
29	9	39	19
30	10	40	20

20-1101(e) - TABLE 2 Density Cap per Zoning District			
Comprehensive Plan Designation	Density Cap Horizon 2020 (du/acre)	Zoning District	Max. Density per Code (du/acre)
Very-low density: single dwelling	1	RS40	1.09
Low-density: single dwelling	2-6	RS20	2.18
		RS10	4.26
		RS7	6.22
Medium density: single dwelling	7-15	RS5	8.7
		RS3	14.52
		RSO	14.52
Medium density: multi dwelling	7-15	RM12,	12
		RM12D,	12
		RM15	15
High-density: multi-dwelling	16-21 du / acre	RM24,	24 du / acre
		RM32	32 du / acre

(iii) Standards Adjustment

- a. In single-dwelling and duplex-dwelling zoning districts, it may be necessary to reduce the lot area and/or lot width requirements to permit the allowable density. These modifications may be made to the minimum degree necessary to accommodate the allowable density.
- b. In multi-dwelling districts, it may be necessary to increase the height limitation, in addition to adjustments to the lot area and/or lot width requirements, to permit the allowable density. These modifications may be made to the minimum degree necessary to accommodate the allowable density.

(4). Density Bonus -- Increase in Developable Square Footage.

This bonus permits the construction of larger structures, and/or the addition of more impervious surface on a lot, rather than an increase in the number of dwelling units. The proportions listed in Table 3 apply to the increase in developable square footage. Each 1% of protected environmentally sensitive lands protected above that required by Code results in a 1% increase in the building or impervious surface coverage up to a maximum of 40%. (In no case shall the building coverage or impervious surface coverage exceed 90% of the lot).

(i) Standards Adjustment

In some cases the minimum outdoor area or setbacks may need to be reduced to accommodate the additional building or impervious surface coverage. This reduction may be made to the minimum degree necessary to accommodate the additional building or impervious surface coverage.

20-1101(e)-TABLE 3 Density Bonus — Increase in Developable Area						
<i>Zoning District</i>	<i>Maximum Building Coverage (%)</i>	<i>Maximum Impervious Coverage (%)</i>	<i>Min Outdoor Area per Dwelling (sq ft)</i>	<i>Int Side Setback (ft)</i>	<i>Front Setback (ft)</i>	<i>Rear setback (ft) Single frontage / double frontage</i>
RS40	15	25	--	20	25	30/35
RS20	30	50	--	20	25	30/35
RS10	40	70	--	10	25	30/25
RS7	45	70	--	5	25	30/25
RS5	50	75	240	5	20	20/25
RS3	50	75	150	5	15	20/25
RSO	50	75	--	5	25	20/25
RM12D	50	75	50	5	25	20/25
RM12	50	75	50	5	25	20/25
RMO	50	75	50	5	25	20/25
RM15	50	75	50	5	25	25/25
RM24	50	75	50	5	25	20/25
RM32	60	80	50	5	25	20/25
*	1% increase	1% increase	1% decrease	Adjusted as needed --not less than 5	Adjust as needed—not less than 15	Adjust as needed—not less than 15

* for each 1% protection above the required 20% (to maximum of 40%)

(f) Sensitive Areas Site Plan Process

Prior to development on land containing more than 500 square feet of environmentally sensitive lands listed in Section 20-1101(d)(2)(i), a Sensitive Areas Site Plan shall first be submitted to and approved by the City in accordance with the requirements of Site Plan Review Section 20-1305 including the public notice procedure of Section 20-1305(g).

(1) Sensitive Areas Site Plan Contents

The Sensitive Areas Site Plan must be prepared in accordance with the requirements in Section 20-1305(f) with the exception that a Sensitive Areas Site Plan is not required to be completed by an engineer, architect or other qualified professional. In addition to the contents noted in Section 20-1305(f), the site plan shall:

- (i) Clearly delineate the property boundaries.*
- (ii) Clearly delineate the boundaries of the environmentally sensitive lands listed in Section 20-1101(d)(2)(i).*
- (iii) Designate protected lands per the priority order in Section 20-1101(d)(2)(i).*
- (iv) Provide information on the ownership and maintenance responsibility for the protected lands.*
- (v) Provide information on the methods to be used to protect environmentally sensitive lands, both during construction and after.*

[Followed by remainder of Article 11.]

ARTICLE 17

Proposed revisions to definitions in Section 20-1701:

Common Open Space: Land, water body, water course, or drainageway within a development that is designed and intended for the use or enjoyment of all the residents and Landowners of the Development. Common Open Space, except for Common Open Space designated as Environmentally Sensitive Lands, may contain such supplementary Structures and improvements as are necessary and appropriate for the benefit and enjoyment of all the residents and Landowners of the Development. Common open space shall not include space devoted to streets, alleys, or parking areas. While required setbacks may function as common open space, they may not be used to meet the minimum requirements. This is an essential additional statement but also should include driveways and required distance between buildings.

Jurisdictional Wetland: Wetlands which are regulated by Section 404 of the Clean Water Act and are under the regulatory jurisdiction of the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA).

Mature Trees, Stand of: An area of ½ acre (21,780 sq ft) or more located on the 'development land area', per Section 20-1101(d)(2)(ii) or on other contiguous residentially zoned properties, containing trees that are 25 feet or more in height, or are greater than 8" caliper, in an amount adequate to form a continuous or nearly continuous canopy. (Canopy may be determined from resources such as, but not limited to, NAIP, National Agricultural Imaging Program; City/County GIS aerials; and field surveys.)

Stream Corridor: A strip of land 100 feet wide, of which the centerline shall be the centerline of a stream that is not an ephemeral stream: a stream where flow occurs for only a short time after extreme storms and does not have a well-defined channel, similar to a drainage way.

Base Density: The number of dwelling units that can be developed on a subject property, rather than the number of dwelling units that are permitted for the zoning district. Base density is the number of dwelling units that can be developed given the size of the parcel, the area required for street rights-of-way or infrastructure, the density and dimensional standards of Section 20-601(a), the environmental protection standards, as well as topographical or other features unique to the property.

Density Bonus: An incentive-based tool that permits property owners to increase the maximum allowable development on a property in exchange for helping the community achieve public policy goals, such as protection of environmentally sensitive areas.

Density Cap: Maximum density levels set by the Comprehensive Plan. Low-density (6 dwelling units per acre); medium density (15 dwelling units per acre) and high density (24 dwelling units per acre).

Many of our important waterways are "ephemeral," but are essential to be preserved and left open.