

ORDINANCE NO. 2007 - 07

AN ORDINANCE ADOPTING CHAPTER 18.22 TO ESTABLISH A CLUSTERED OPEN SPACE ZONE (COSZ)

BE IT ORDAINED by the City Council of Heber City, Utah, that Chapter 18.22 of the Heber City Municipal Code is adopted, as follows:

Chapter 18.22

Clustered Open Space Zone (COSZ)

Preamble:

The intent of this section is to provide regulations that will further the objectives of the General Plan relating to residential developments. It is the intent to achieve an excellent balance between open space and clustering of buildings, harmony between new development and the surrounding area, longer life expectancy for buildings, superior maintenance and appearance of the landscaping and buildings and an overall project open space atmosphere that concurs with goals for a more attractive City. These regulations are intended to create residential development which offers a better living environment with open space, trails, amenities (with no fences) and maintenance of all the grounds which provides enhanced value to the surrounding community. Upon approval of a Clustered Open Space Zone (hereinafter referred to as an "COSZ"), the approved site plan shall then constitute the zoning restrictions and regulations of the zoning district as applied to the territory shown on the plan.

Section 18.22.010: COSZ Definition.

The COSZ is an overlay Zone, which may upon petition, and review and approval of the City Council, come into existence to overlay a specific portion of an existing R-2 or R-3 zoned area.

Section 18.22.020 Purpose.

It is the intention of this Section to require the developer to demonstrate by the materials and plans submitted for approval that the objectives and goals of the General Plan have been enhanced. If this cannot be shown, approval of the clustered open space plan allowed through the use of these regulations shall not be given.

Section 18.22.030 Definitions.

A. *Open Space* shall mean "a parcel or area of land or water within a development essentially unimproved or set aside, dedicated, designated or reserved for public or private use or

enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.”

B. *Common area* shall mean “land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.”

C. *Convenience center* shall mean “a retail building with less than 2,000 square feet of gross floor area, developed primarily for the use of the residents of the COSZ development, but shall not include the sale of fuel.

Section 18.22.040 Approval Process.

A. **Pre-application conference with staff member.** Any person wishing to construct an COSZ shall meet with a staff member, check and review the zone information, obtain application and review procedures, obtain information from the City regarding the City's plan of land use, streets, water, sewer, traffic, trails and parks, and public facilities; and have discussion about public participation meetings and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined below.

B. **Concept Plan.** The purpose of the Concept Plan Review is to explore general feasibility early in the planning process. The intent of requiring a Concept Plan is to help avoid unnecessary and costly delays when pivotal information or necessary resources are not available because they were not addressed until later in the process. The Concept Plan procedure does not insure or provide approval of the development. It is however an important preparation, review and educational component of the overall approval process. While more flexible in nature than the subsequent steps of Preliminary and Final Approvals, the Concept Plan still needs to be carefully prepared and thoroughly reviewed to be useful. As part of the Concept Plan, the developer shall submit:

1. An application for development.
2. A written description of how the development will comply with and promote Heber City's Vision and Clustered Open Space Zone.
3. A description of the type of development and project name.
4. A plan which shows a simple concept of the major features of the development including roads in relation to existing conditions and developments within one-fourth (1/4) of a mile of the outside boundaries of the development. Handwritten plans will not be accepted. The Concept Plan shall be submitted on two (2) full-size, 24" x 36" copies, and twenty (20) 11"x 17" copies of the Concept Plan shall be submitted to the Planning Commission.
5. Title ownership information and a current Preliminary Title Report. If the applicant is not the owner listed on the Preliminary Title report a written consent to the application signed by the title holder must be provided.
6. Lot or unit pattern and size(s).
7. Number of lots or units and conformance with the zone.
8. The types of buildings in the project by use and the architectural elevations and style.

9. Any plans for common area.
10. Any plans for common amenities.
11. Any public dedication proposals.
12. Conceptual Landscape Plan.
13. Any open space provisions including the following information:
 - a. Location.
 - b. General size. (Meeting a 50% minimum open space requirement)
 - c. Description of how the open space plan conforms to the standards

for open space.

- d. Any off-site open space trading provisions as allowed by this

Ordinance shall be taken to the City Council for approval before applying for preliminary plan approval.

14. The trails proposed within the project.
15. A topographic map that is suitable for electronic mapping analysis.
16. With regard to any issues involving "Sensitive Lands";

project.

- a. Topographic information related to such issues involving the
- b. Information to identify potential sensitive land issues and a plan for how to address these issues.

c. Information regarding potential wildlife issues with the project, and surrounding area which might be impacted.

17. A summary of the water rights status for the proposed project detailing how much is owned now versus how much is estimated to be needed to complete the project and service the development.

18. Letter of submittal for the concept plans to the Heber Valley Fire Special Service District that transmits the plans to them.

C. Preliminary Plan. After review of the Concept Plan by the Planning Commission, the developer shall prepare a preliminary plan and shall submit two (2) copies of the plan on 24" X 36" sheets and twenty (20) copies of the plan on 11" X 17" size paper to the Planning Commission for its recommendation to the City Council. The purpose of the Preliminary Plan is to demonstrate how the proposed development plan will be able to meet the standards required under the Zoning Ordinance and other applicable law or regulation after considering the issues and recommendations found during the concept review phase. While the preliminary plan is not expected to contain construction drawings, it is expected that the preliminary plan will demonstrate compliance with this code. The preliminary plan shall contain the following information (if any of the following information is satisfied by the information submitted during the concept plan review, that same information must be included again with the preliminary plan):

1. Description of how the development will implement Heber City's Vision.
2. Type of development.
3. Name of development.
4. Applicant entity's name, primary contact name, civil engineer, architect, designer and attorney, with respective contact addresses, phone numbers, fax numbers, and email addresses for each.
5. Legal description with recorded section coordinates tie.
6. Zone boundaries and designations.

7. North point and a scale consistent with a scale that is on a standard engineering scale ruler.
8. A statement that lists the issues discussed during the Concept Review and reconciles those issues with the Preliminary Application being submitted at this time.
9. A site plan showing location of all buildings, building pads, lots or structures, the elevation view of all structures accompanied by estimates of cost to purchase or rent, including a description of building materials to be used in the construction of all units.
10. Dimensioned side, rear and front yards, including the required side, rear and front set backs pursuant to City Ordinances and Requirements.
11. Location and description of all recreational and open space areas and facilities.
12. Topography shown by contours at no greater interval than two (2) feet except that a greater interval may be permitted when the property is outside the survey boundary if specifically authorized by the Planning Commission.
13. The outside boundary of the project.
14. Tabulation of land use, including:
 - a. Total area, open space, building area, and dedicated streets;
 - b. Drives and parking (all the above shown in acreage and percentage);
 - c. Number of units and project density;
 - d. Types of units by number of bedrooms, where applicable; and
 - e. Parking spaces (covered and uncovered), where applicable.
15. Identify who will hold title for any open space and open space easements at the conclusion of Development.
16. Adjacent property owners, including their respective mailing and physical addresses and telephone numbers.
17. Proposed circulation pattern including, private and public streets and sidewalks.
18. Typical street or roadway cross sections.
19. A detailed statement and illustration of how the project will mitigate "Sensitive Lands" identified in the Concept Phase.
20. Existing and proposed easements, waterways, utility lines, canals and ditches, with specifications of ownership, and disclosures of who is responsible for, and how such will be maintained. This information shall include verification of compliance with all local, state and federal regulations with regard to said easements, waterways, utility lines, canals and ditches.
21. A plan for accommodating trails, waterways, ditches and canals.
22. Proposed and existing sewage disposal facilities.
23. Existing and proposed storm drain system with the related run-off calculations for the development site including routing the runoff water that leaves the site to a City storm drain or natural drainage approved by the City to accept the water.
24. Existing and proposed water system indicating size of water lines and fire hydrant locations. Indications as to the capacity of the water system as it relates to the project when required.

25. More detailed (than concept) landscape plan indicating areas of landscaping and irrigation and the various types of landscape materials.

26. A noxious weed control plan.

27. Letter of intent signed by the applicant stating the following information when applicable:

a. Design theme of project

b. List of common area amenities

c. Time schedule for completing common area amenities

28. Any other information City staff or the Planning Commission may determine necessary relating to the particular site of the proposed project.

29. Evidence of sending an 11" x 17" copy of preliminary plan to QWest, Questar Gas, Heber Light & Power, ComCast (Cable Company), Heber Valley Fire Protection Special Service District, and Wasatch County Solid Waste Disposal District.

30. An updated preliminary title report as of the date of the Preliminary application.

31. A list of the documentation that will be required at Final Approval to implement the plans for the development and keep it maintained after approval.

D. Final Approval. The developer shall submit final development plans, approved by the City Engineer, to the Planning Commission. Said plans shall conform to all City Engineering and Title 17 Subdivision standards and requirements of the Heber City Municipal Code. The Planning Commission shall review and make its recommendation to the City Council. The City Council shall have ultimate authority to accept, modify or reject, or send back to the Planning Commission for further review.

Section 18.22.050 Project Density.

The permitted base densities allowed in a COSZ for each zoning district are listed below:

A. R-2 Zone: 5 units per acre

B. R-3 Zone: 12 units per acre

Section 18.22.060 Permitted Uses.

A. The principal use permitted in the COSZ is the residential living unit. Other uses may be permitted where it can be shown they are accessory to the residential project. All uses permitted in the COSZ shall require Planning Commission review and City Council approval and be identified on the site plan and mentioned and approved as part of the application process. Uses not approved specifically by the City Council are prohibited.

B. Where the size, location and scope of a proposed COSZ are such that a convenience center would add to the convenience of the people living in the development, the Planning Commission may recommend and the City Council may authorize the construction of such a convenience center when the size of the project so justifies. The convenience center may only be constructed after the residential units have been completed

C. The acreage of the project used to determine density shall be decreased by the amount of property used for the convenience center and its associated parking.

Section 18.22.070 Standards and Requirements.

The following standards, requirements and conditions shall apply to all COSZ's:

A. The project must be prepared by a design team composed of at least a civil engineer, an architect and an attorney, all of whom must be licensed to practice in the State of Utah.

B. All dwelling units shall be served by a public sewer and a City-approved water supply. All utilities within the COSZ shall be placed underground, including telephone, power and television. Except for sewer, all dwelling units shall have separate utility connections and metering.

C. During the development stage, the real property and parcel proposed for a COSZ shall be titled with one owner to provide for full supervision and control of said development and to insure conformance with these provisions and all other conditions required by the City Council upon the preliminary and final development plans. The Planning Commission shall review all such conformance and condition requirements and shall make recommendations with regard thereto to the City Council.

D. In the event that the land contained within a development is traversed by a proposed collector or arterial street, the development shall be designed in accordance therewith and the right-of-way across the development for said collector or arterial streets shall be dedicated to the public with improvements.

E. All areas not covered by buildings, parking, streets or drives shall be planted with grass, trees, shrubs or other plant materials as approved by the Planning Commission in the submittal of the final landscape plan. Areas may be allowed to be left in a natural state or xeriscaped, if the Planning Commission and City Council finds this more desirable than traditional landscaping; also, a permanent sprinkler system shall be installed in all landscaped areas to provide irrigation of planted areas.

F. The minimum land area for a COSZ shall be ten (10) acres.

G. With the following exceptions, dwelling and permitted structures may be located as recommended by the Planning Commission and approved by the City Council in the final development plans. Buildings should be arranged as to best comply with the intent of this Ordinance. These exceptions shall be considered, as minimum requires as they apply:

1. Set-backs along the peripheral property lines of the COSZ shall be a minimum of thirty (30) feet. For safety reasons, buildings may be required to be set back further from recreational areas, such as golf courses, ball fields, etc.

H. Not less than fifty (50) percent of the area of the COSZ shall be retained in permanent open space, parks and playgrounds. Land proposed to be devoted to vehicular streets or roads, parking, and drives shall not be included in the computation of open space. Uncovered recreational facilities such as football fields, baseball diamonds, and playgrounds will be allowed in the open space requirements. Entry features such as roundabouts, median planter strips, fountains,

etc. may count as open space if the design of such features is approved by the Planning Commission and City Council. To the greatest extent possible, open space areas shall be placed so as to be visible from both inside and outside the COSZ. Open space shall be either appropriately and attractively landscaped or actively used for agricultural purposes. An acceptable landscaping plan, including a noxious weed plan, must be submitted before preliminary approval of the subdivision and complied with thereafter. COSZ's shall be required to either (1) deed to each owner in the COSZ an undivided ownership interest in the open space contained within the COSZ and form a homeowners association which shall be responsible for maintaining such open space according to Covenants, Conditions and Restrictions recorded with the plat or (2) place the open space in a perpetual conservation easement granted to an established conservation organization. If the open space is placed in a conservation easement, a maintenance agreement shall be entered into with the conservation organization to guarantee proper maintenance of the open space.

I. All parking spaces, parking areas and driveways must be hard-surfaced and properly drained with no drainage running across public or private sidewalks.

J. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.

K. All street construction improvements in COSZ's shall be constructed in accordance with public street construction widths and cross-section standards, and City standards. Such construction shall be subject to the approval of the City Engineer.

L. All parking areas shall be screened from public view when reasonably and practicable to do so with berms and landscaped features.

M. The project shall connect any trails shown on the City Trails Master Plan for the area.

N. When it is necessary in order to implement the intent of this Section, the Planning Commission may recommend to the City Council specific development standards in excess of the minimums identified herein. The City Council may impose specific development standards in excess of the minimums identified herein. The City Council shall not be restricted to consider only those standards recommended by the Planning Commission, but shall have the authority to impose all such development standards in excess of the minimums identified herein that the Council feels are reasonable and justifiable. Gated communities shall not be permitted.

O. No building shall exceed 35 feet in height, measured from grade to the highest point of the building, excluding chimneys and antenna.

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder, and (c) a short summary of it has been published in the Wasatch Wave or a complete copy has been published in the Wasatch Wave or a complete copy has been posted in three public places within Heber City but not prior to the 1st day of February, 2007.

ADOPTED and PASSED by the City Council of Heber City, Utah this 1st day of February, 2007, by the following vote:


	AYE	NAY
Councilman Terry Wm. Lange	<u> X </u>	<u> </u>
Councilman Vaun Shelton	<u> X </u>	<u> </u>
Councilwoman Shari K. Lazenby	<u> </u>	<u> </u> Absent
Councilman Jeffery R. Bradshaw	<u> X </u>	<u> </u>
Councilwoman Elizabeth Hokanson	<u> </u>	<u> X </u>

APPROVED:



Mayor David R. Phillips

ATTEST:



RECORDER

(Seal)

Date of First Publishing: 02-07-07