

ORDINANCE NO. 2021-19

AN ORDINANCE AMENDING THE LAND USE AUTHORITY FOR LAND USE APPLICATIONS

WHEREAS, The Heber City Council finds it in the public interest to have a consistent development approval process for all zones.

WHEREAS, The Heber City Council finds it in the public interest to ensure proper separation of government roles and duties.

WHEREAS, The Heber City Council finds it in the public interest to be more engaged in the legislative processes to carry out the General Plan and Plan for future development.

BE IT ORDAINED by the City Council of Heber City, Utah, that Chapter 17.08 Definitions, 17.16 General Subdivision Procedures, 17.19 Condominiums, 17.20 Plans, 17.38 Commercial Developments, and Section 18.22.040 Approval Process are **AMENDED** as shown in Exhibit 1.

This Ordinance shall take effect immediately upon passage.

ADOPTED and PASSED by the City Council of Heber City, Utah this 21st day of September, 2021, by the following vote:

	AYE	NAY
Council Member Heidi Franco	<u> </u>	<u> X </u>
Council Member Wayne Hardman	<u> X </u>	<u> </u>
Council Member Rachel Kahler	<u> </u>	<u> X </u>
Council Member Ryan PC Stack	<u> X </u>	<u> </u>
Council Member Mike Johnston	<u> X </u>	<u> </u>

APPROVED:

Kelleen Potter
Mayor Kelleen Potter



Exhibit

1

17.08 Definitions

17.08.010 Generally

17.08.020 Arterial Street

17.08.030 Collector Street

17.08.035 Subdivision, Twin Home

17.08.040 Easement

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17.08.100 On-Site Facilities

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17.08.120 Preliminary Plan

17.08.130 Subdivider

17.08.140 Subdivision

17.08.150 Master Development Agreement

17.08.010 Generally

For the purpose of this title, the definitions set out in this chapter shall apply.

17.08.020 Arterial Street

"Arterial street" means a street, existing or proposed, which serves, or is intended to serve, as a major traffic way and which is designated as an arterial street on the city major street plan.

17.08.030 Collector Street

"Collector street" means a street, existing or proposed, which is supplementary to an arterial street or which connects minor streets with significant traffic generators and which is shown as a collector street on the city's major street plan.

17.08.035 Subdivision, Twin Home

"Twin Home Subdivision" means a proposed subdivision of a two-unit building built upon one lot zoned as a twin home lot, creating two lots, each lot containing one unit of the two-unit building. Both lots on the proposed subdivision must correspond with the common wall, must abut a city street or road which has been accepted for maintenance, and must be physically accessible, or capable of being physically accessible, from the public street by conventional vehicles.

17.08.040 Easement

"Easement" means the quantity of land set aside or over which a liberty, privilege or advantage, separate from the ownership of the land, is granted to the public or some particular person or part of the public.

17.08.050 Final Plat

"Final plat" means a map or chart of the land division which has been accurately surveyed, and such survey marked on the ground, so that streets, alleys, blocks, lots and other divisions thereof can be identified.

17.08.060 Large-Scale Development

"Large-scale development" means a tract of land which is planned, developed, and maintained as a single entity wherein the requirement applying to all buildings and improvements within the development are modified to conform to the approved plan.

17.08.070 Metes And Bounds

"Metes and bounds" means the description of a lot or parcel of land by courses and distances.

17.08.080 Minor Street

"Minor street" means a street, existing or proposed, which is supplementary to a collector street and of limited continuity which serves, or is intended to serve, the local needs of a neighborhood.

17.08.090 Off-Site Facilities

"Off-site facilities" means facilities designed or located so as to also serve other property outside of the boundaries of the subdivision, usually lying between the development and existing facilities.

17.08.100 On-Site Facilities

"On-site facilities" means facilities installed within or on the perimeter of the subdivision or development site.

17.08.110 Over-Size Facilities

"Over-site facilities" means facilities with added capacity designed to serve other's property, in addition to the land within the boundaries of the subdivision or development site.

17.08.120 Preliminary Plan

"Preliminary plan" means a map or chart of a proposed land division.

17.08.130 Subdivider

"Subdivider" is any person or legal entity layout or making a land division for the purpose of sale, offering for sale, a gift, or selling for himself or others a subdivision or any part thereof.

17.08.140 Subdivision

- A. "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms and conditions.
- B. "Small subdivision" means a subdivision containing less than ten lots and conforming to all of the other conditions set forth in Section 17.12.010 of this title.

17.08.150 Master Development Agreement

"Master Development Agreement" (MDA) means an enforceable contract between the City and Developer that outlines the considerations and conditions of approval or agreed terms for the approval of a Master Plan. MDA's are a covenant that run with the land.

- A. "Major Amendment" means an amendment that alters the density, unit types, open space, master planned trails and phasing, master planned parks, affordable housing.
- B. "Minor Amendment" means any other alterations that do not constitute a Major Amendment.

17.16 General Subdivision Procedures

17.16.010 Required Procedures For Approval

17.16.010 Required Procedures For Approval

The following steps or procedure must be followed in order to obtain approval of a subdivision:

Application	Land Use Authority		Appeal Authority
	Staff	Planning Commission	City Council Administrative Decisions Only

Master Plans and Master Development Agreements	-	R	A	AA
Major Amendments to Master Plans and MDA's	-	-	A	AA
Minor Amendments to Master Plans and MDA's	A	-	-	CC
Concept Plans - Legislative	-	IR	IR	-
Concept Plans - Administrative	IR	-	-	-
Preliminary Plat	-	A	-	AA
Final Plat	A	-	-	AA
Plat Amendment with Public Hearing (See 17.18)	-	A	-	AA
Plat Amendment without Public Hearing (See 17.18)	A	-	-	AA
Lot Line Adjustment	A	-	-	AA
Site Plan	-	A	-	AA
Site Plan Amendment - Major	-	A	-	AA
Site Plan Amendment - Minor	A	-	-	AA
IR- Informal Review, R- Recommending Body, A- Approving Body			AA – Appointed Appeal Authority, CC – City Council	

- A. Application Submittal Deadline. All applications shall be made at least 16 (sixteen) calendar days before the next regularly scheduled Development Review Meeting (DRM). Applications must be complete, including fees, in order to be considered to have met the submittal deadline.
- B. Staff Review. Staff will review the application and provide a written review to the applicant following the Development Review Meeting. Staff shall consider the following items in their review:
1. Relationship of the proposal to the General Plan;
 2. Zoning of the proposed development;
 3. Third-party utility considerations;
 4. Roads and general transportation;
 5. Flood zones and potential flood hazards;

6. Culinary water requirements;
 7. Pressurized irrigation requirements;
 8. Sanitary sewer requirements;
 9. Storm water system requirements;
 10. Park and Trail requirements;
 11. Capital improvement plans;
 12. Other items deemed necessary by the planning or engineering staff.
- C. Outsourcing of Plan Reviews. The City may outsource the review of any application to contracted consultants. Unless consultants are the primary reviewer for all applications, the City will notify the applicant that their application review will be outsourced. Outsourced reviewed will follow the provisions of the Staff Review above.
 - D. Development Review Meeting. The Development Review Meeting (DRM) is regularly scheduled meeting for the administrative review of development applications, consisting of staff from the City, local utilities, and other organizations as applicable. The purpose of the DRC is to review development applications for compliance with development standards, coordination between jurisdictions, utilities, and organizations as applicable, and meet with applicants to provide guidance and understanding of the requirements of their application. No application approvals are granted during Development Review Meetings.
 - E. Master Plan Submission. Applicant prepares Master Plan, makes application, pays fees, and submits concept plans prior to application submittal deadline. Master Plans are required for all Mixed Use Zones as defined by Section 18.16.010, or as required by the Council for consideration of approval for legislative requests.
 - F. Master Plan Approval. The City Council is the Land Use Authority for Master Plan applications, with the Planning Commission as the recommending body.
 - G. Master Development Agreements. The City may enter into Master Development Agreements (MDA) if required as part of a legislative approval or if negotiated with an applicant. Per State statute, a public hearing is required for any MDA that allow for provisions outside of the current zoning regulations.
 - H. Master Development Agreement Approvals and Amendments. New MDA's shall be approved by the City Council. Major Amendments to an MDA are reviewed and approved by the City Council. Minor Amendments to an MDA are approved by the Planning Director or designee.
 - I. Concept Plan Submission. Applicant prepares Concept Plan, makes application, pays fees, and submits concept plans prior to application submittal deadline. This applies to concept plans for commercial, industrial, and multiple-unit residential projects where a Master Plan is not required. Applicant shall provide electronic copies of the proposed concept plans in PDF format. Planning Staff shall deliver the copies to each Planning Commission member, engineering, public works, applicable utility agencies, school district, City fire official, postal service, police chief, City Manager, building official, UDOT (if applicable), and affected entities as required by Utah State Code;
 - J. Concept Plan Review. Concept Plans are informally reviewed by City Staff for compliance with the Development Code. Comments are provided to the applicant in preparation of submitting a Site Plan or Preliminary Plat application. Concept Plans that accompany a legislative request will be informally reviewed by the City Council.
 - K. Preliminary Plan Submission. Applicant prepares preliminary plan and Preliminary Environmental Impact Assessment (see Section 17.20.020) and submits electronic copies in PDF format, makes application, and pays fees prior to application submittal deadline. Commercial projects are not required to submit Preliminary Plans;
 - L. Preliminary Plan Approval. The Planning Commission reviews preliminary plan as per items discussed at concept plan review and for compliance with the ordinance. The Planning Commission is the Land Use Authority for approving the Preliminary Plan, with appeals going to the City Council. If approval is given at this time, the applicant shall be given a list which has

been revised from the one given at the concept stage. This list shall pertain to items the Planning Commission expects on the final plans. Preliminary approval does not guarantee final subdivision approval;

- M. Final Plat Submission. Applicant prepares and submits final plat, makes application, and pays fees prior to application submittal deadline. Final plat shall consist of items required at preliminary stage and by this ordinance in electronic PDF format. All commercial developments that don't involve a subdivision require the submission of a Final Plan for review and approval by the Planning Commission. Exception: On a single commercial building, built in an approved development or on a lot of record, the Zoning Administrator and City Engineer may give final approval based on direction from the Planning Commission given at the time of preliminary plat approval.
- N. Final Plat Approval. The Planning Director, or its designee, is the Land Use Authority responsible for approving the final Plat, with appeals going to the Appeal Authority. For subdivisions which require variances as per Chapter 17.60, the City Council shall be the Land Use Authority, with administrative appeals going to the Board of Adjustment and policy making appeals going to the District Court. The Land Use Authority reviews final plan and approves final plat if it is complete and if all requirements from preliminary plan approval are met or disapproves it. The final plat shall be in substantial compliance with the plans approved at preliminary stage. Final Plans shall not have a material departure from Preliminary approval. Any material departures regarding the rights and obligations of the parties shall require a modified Preliminary approval by the Land Use Authority.
- O. Recordation of Final Plat. Applicant records plat in office of County Recorder within one (1) year from the date receiving final approval and before selling or conveying any lots within the subdivision. Final plats not recorded within one (1) year from the date receiving Final approval shall be null and void unless physical construction has started or an extension has been requested and granted prior to the original plat expiration date. In cases where construction has started, plat approval shall automatically be extended for a second year from the date of the final approval. If physical construction has not started, applicants may request and be granted a one (1) year extension. However, if an extension is granted, the requirement to incorporate updated City standards, or reevaluate bonds or other assurances may be enforced as a condition of approval for the extension. Plat extensions are granted by the applicable Land Use Authority for Final Plats.
- P. Site Plan Submission and Approval. Applicant prepares and submits site plan, makes application, and pays fees prior to application submittal deadline. Site plans shall consist of items required for the Final Plans by this ordinance in electronic PDF format. Site Plans are required for all non-residential and multi-family residential developments. The Planning Commission shall be the Land Use Authority for all site plan approvals.

17.19 Condominiums

17.19.010 Purpose

17.19.020 Definitions

17.19.030 Approval Required

17.19.040 Submission Of Application

17.19.050 Review By The Planning Commission

17.19.060 City Council Final Approval

17.19.070 Unlawful To Sell Or Lease

17.19.010 Purpose

Utah State Code establishes condominiums as a form of subdivision and requires that all condominium projects be reviewed by the Land Use Authority. Commercial and industrial condominiums are permitted in any zone that permits commercial and industrial uses. Residential condominiums are permitted only in

zones that specifically permit residential condominium dwelling units of for legal non-conforming multi-family dwellings.

HISTORY

Adopted by Ord. 2004-04 on 2/19/2004

Amended by Ord. 2019-13 Amending Condominium Requirements on 5/7/2019

17.19.020 Definitions

For the purposes of this ordinance, the following definitions shall apply:

1. "Condominium" means the ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property.
2. "Condominium or Condominium Projects" shall mean a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed buildings or structures, or otherwise are separately offered or proposed to be offered for sale. Condominium Project shall also mean the property when the context so requires.
3. "Condominium Unit" shall mean a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference to a condominium unit includes both physical unit together with its appurtenant individual interest.
4. "Conversion" shall mean a proposed change in the type of ownership of a parcel or parcels of land and/or existing structures from single ownership into a "condominium project" as herein defined with arrangements involving separate ownership of individual condominium units and joint collective ownership of common areas or facilities.
5. "Declaration" shall mean a recorded declaration containing covenants, conditions, and restrictions relating to the condominium project, which shall be prepared in conformance with provisions of Section 57-8-10, Utah Code, as amended.

HISTORY

Adopted by Ord. 2004-04 on 2/19/2004

Amended by Ord. 2019-13 Amending Condominium Requirements on 5/7/2019

17.19.030 Approval Required

Prior to the construction or conversion of any building or use as determined as a condominium, a survey map or project plan shall be submitted to and be approved by Heber City in conformance with the procedures, requirements, and standards contained within the Heber City Code and the requirements of the Utah Condominium Ownership Act.

HISTORY

Adopted by Ord. 2004-04 on 2/19/2004

17.19.040 Submission Of Application

The owner or developer of a proposed condominium project or conversion project shall file an application with the Planning Commission. Such application shall be accompanied by and be in accordance with the following:

1. The application or survey map shall be drawn to scale in accordance with the Heber City subdivision plan process and current Standards and Specifications as adopted by the City. Such survey map or application shall be prepared by a licensed engineer or architect and shall certify the final condominium plat.
2. The proposed project shall be at a scale no less than 1 inch equals 40 feet and shall designate the location of all buildings present, needed or proposed. Further, present and proposed street right of ways, utilities, irrigation ditches, common areas including the location of utility lines and

easements, location of storage, parking, driveways, pedestrian ways, curb, gutters, walls, fences and landscaping.

3. The petitioner shall prepare and provide copies of the condominium declaration and bylaws or property owners organization.
4. Where conversions of existing buildings are proposed as part of the project, a property report containing information shall be submitted as part of the application together with a plan of all proposed improvements and repairs.
5. To assist the City in defraying the cost involved in the publication and review of a condominium project, a fee shall be submitted with the application in accordance with Heber City's fee schedule as adopted by the Heber City Council.

HISTORY

Adopted by Ord. 2004-04 on 2/19/2004

17.19.050 Review By The Planning Commission

The Planning Commission shall review the proposed application and related documents to determine whether the project conforms with all appropriate requirements, Standards and Specifications of the City and is in conformance with the Utah Condominium Ownership Act.

1. If the Planning Commission finds that there are any violations to any of the applicable ordinances, building codes, or similar requirements, the Planning Commission may hold the application for the condominium project until such time that all violations have been corrected.
2. The proposed project shall be consistent with the International Fire Code and Adopted Building Codes.
3. The Planning Commission may require additional parking that shall be based on occupancy levels and proposed customer demand. But in no way shall it be less than what is required under the zoning district in which the project is proposed.
4. The Planning Commission may also require additional exits or driveways including the approval of shared driveways.
5. The Planning Commission may require additional open space and landscaping to assure appropriate buffering and compatibility with adjacent uses.
6. Utility meters shall be installed to the development and/or each condominium unit as specified by the applicable utility .
7. Water meters shall be installed according to City Standards and Specifications at street right-of-ways.
8. All utilities and utility lines shall be placed within the public right-of-way. However, approved public easements may be permitted if the Planning Commission deems them essential for the feasibility of the project and the City Council approves said easement.
9. Each unit shall be provided with readily accessible individual shutoff valves, safety devices, or switches for water, gas and electrical services.
10. The Planning Commission may recommend to the City Council any condition which they deem appropriate. Such conditions may include corrections of violation of building, zoning, health, fire, or similar codes, appropriate amendments to declaration, bylaws or amendments to the record of survey map and project plan which may enhance or protect the environment of the project and the neighborhood in which it is located.

17.19.060 Preliminary and Final Plat Approval

Condominium Plats are required by Utah State Code to follow a Preliminary and Final Plat Process. The Planning Commission shall be the Land Use Authority for the Preliminary Plat of a condominium plat. The Planning Director, or designee, shall be the Land Use Authority for Final Plat Approval of a

condominium plat. Approval of a condominium project shall remain in effect and expire pursuant to Section 17.16.010(I).

HISTORY

Adopted by Ord. 2004-04 on 2/19/2004

17.19.070 Unlawful To Sell Or Lease

It is unlawful for any person, firm, corporation, partnership, or association to sell, contract to sell, or to lease any unit of any condominium or any other portion thereof until final record of survey plats, in full compliance with the provisions of this Ordinance, have been certified and signed by the Mayor, the Planning Commission Chair, City Engineer and City Attorney, attested by the City Recorder and duly recorded in the Office of the County Recorder.

HISTORY

Adopted by Ord. 2004-04 on 2/19/2004

17.20 Plans

17.20.010 Master Plans

17.20.020 Concept Plans

17.20.030 Preliminary Plans

17.20.040 Final Construction - Plans And Final Plat

17.20.010 Master Plans

The Master Plan shall include all items in the Concept Plan and the following:

- A. Phasing Plan, including open space, trails, and amenities
- B. Conceptual building elevations and proposed materials
- C. Sensitive lands analysis
- D. Conceptual Affordable Housing Plan, including the following:
 - 1. Number of Affordable Housing Units
 - 2. Unit Types

17.20.020 Concept Plans

The Concept Plan shall be drawn to a scale no smaller than one inch equals one hundred (100) feet and shall include:

- A. Conceptual layout of the following:
 - 1. Proposed streets, in relation to the existing and planned streets within one-fourth mile of the subdivision
 - 2. Lots, including lot sizes
 - 3. Building pads for residential projects
 - 4. Buildings for multi-family or nonresidential projects, including building area
 - 5. Parking for nonresidential and multi-family residential projects
 - 6. Open space, as required by the zone
 - 7. Landscaping, as required by the zone
- B. Data Table containing the following:
 - 1. Uses
 - 2. Density
 - 3. Open space calculations, as required by the zone
 - 4. Landscaping calculations, as required by the zone
 - 5. Parking analysis

17.20.030 Preliminary Plans

The preliminary plan shall be drawn to a scale no smaller than one inch equals one hundred (100) feet for overall sheets and one inch equals forty (40) feet for plan and profile sheets and shall show:

- A. The proposed name of the subdivision;
- B. Vicinity map-the location of the subdivision. Where the plan submitted covers only a part of the subdivider's tract, the Land Use Authority may require the subdivider to prepare a preliminary plan covering all of the subdivider's tract before even considering a preliminary plan covering only part of the tract;
- C. The names and addresses of the subdivider, the engineer, or surveyor of the subdivision, and the owner(s) of the land immediately adjoining the land to be subdivided;
- D. Information sufficient to locate accurately the property shown on the plan with reference to survey markers or monuments;
- E. Contour map at intervals required by the Land Use Authority at concept approval;
- F. The boundary lines of the tract to be subdivided;
- G. The location, width, and other dimensions of all existing or platted streets and other important features such as watercourses, exceptional topography and buildings within the tract and within two hundred feet of the tract to be subdivided;
- H. Existing sanitary sewers, storm drains, culinary and secondary water supply mains, and bridges within the tract or within two hundred feet thereof;
- I. The location, width, and other dimensions of proposed streets, alleys, easements, parks and other open spaces with proper labeling of spaces to be dedicated to the public or to the occupants or owners of lots within the subdivision;
- J. Northpoint, scale and date;
- K. Statements regarding the anticipated density and number of dwelling units to be constructed on each lot.
- L. All easements of record shall be shown on the preliminary map; Statements regarding the anticipated density and number of dwelling units to be constructed on each lot.
- M. All lot numbers and bearings, distances, and curve data of all lot lines, street center lines, right-of-way lines, etc.
- N. Unless waived by the City Engineer, the following shall be included with the preliminary plans:
 1. A development agreement that addresses:
 - a. The dedication and maintenance of public and private open space, natural features, trails, amenities, streets and other common areas;
 - b. Implementation of the development's affordable housing plan;
 - c. Conditions of approval necessary to implement the intent and requirements of the Utah State Code, Subdivision Ordinance, Zoning Ordinance, General Plan or Capital Facilities Plan; and
 - d. Measures necessary to mitigate land hazards and sensitive lands as required by the Subdivision Ordinance, Zoning Ordinance or General Plan.
 2. A title report for all lands proposed to be subdivided;
 3. A Preliminary Environmental Impact Assessment evaluating potential/anticipated environmental impacts of the project, including planned measures to limit or mitigate such impacts, addressing each of the following areas:
 - a. Wetlands
 - b. Flood Plains
 - c. Vegetation and Natural Features
 - d. Rivers & Streams
 - e. Slopes and Erosion Control

- f. Endangered and Threatened Species
- g. Historic Properties
- h. Cultural Resources
- i. Water Quality
- j. Air Quality
- k. Hazardous Materials and Operations
- l. View shed analysis where applicable per Section 18.106 Ridgeline Protection

Following review of the Preliminary Environmental Impact Assessment, the City Engineer will determine the need for a full Environmental Impact Statement (EIS) or other potentially necessary environmental work.

4. A Geotechnical Report including the following information:

- a. Summary of Proposed Construction
- b. Evaluation of Geologic Hazards
- c. Subsurface Soil Profiles for the Site
- d. Groundwater
- e. Soil Classifications
- f. Soil Properties
- g. Design Recommendations
- h. Construction Recommendations

5. A Storm Water Drainage Report meeting the requirements of the City Engineer.

6. A Traffic Impact Study meeting the requirements of the City Engineer.

7. Water Action Report as required by Section 15.16.090

8. "Will Serve" letters from all serving utilities.

9. Affordable Housing Plan as required by Section 18.102.030.

17.20.040 Final Construction - Plans And Final Plat

A. The Final plat shall be drawn to a scale no smaller than one inch equals one hundred (100) feet and shall show:

- 1. The name of the subdivision;
- 2. Blocks for the names and stamps of the engineer and/or surveyor of the subdivision. An Owner's dedication block.
- 3. Signature lines for the City Engineer, Land Use Authority and Water and Sewer Service Providers.
- 4. A boundary description. Also, all existing survey monuments and survey monuments to be installed with the construction of the subdivision shall be shown and properly labelled and referenced;
- 5. Northpoint, scale and date;
- 6. All easements of record shall be shown on the final plat;
- 7. Street numbers and names;

8. All lot numbers and situs addresses. Also, all bearings, distances, and curve data for all lot lines street center lines, right-of-way lines, etc.
 9. All public utility easements as required by the planning commission;
 10. A vicinity map showing the location of the subdivision in relationship to the city;
 11. Any notices to purchasers required by the planning commission;
 12. Any notes required by the City Engineer.
- B. The Final Plans shall be drawn to a scale no smaller than one inch equals one hundred (100) feet for overall sheets and one inch equals forty (40) feet for plan and profile sheets. In addition to all of the requirements of the preliminary plans, the following shall also be included with the final plans:
1. An updated title report for all lands proposed to be subdivided;
 2. A revised Environmental Impact Assessment or EIS if required by the City Engineer at preliminary approval. Additional environmental work will be necessary if:
 - a. The proposed development did not adequately mitigate hazards identified in the Preliminary Environmental Impact Assessment.
 - b. Other sensitive land issues as identified by Chapter 17.34, impact the proposed development and were not identified in the Preliminary Environmental Impact Assessment or were not adequately mitigated by the proposed development.
 3. Tax clearance from county assessor;
 4. Hard copy and electronic sets of Engineered construction drawings as required by the City Engineer. In addition to all requirements of the preliminary plans, the final plans shall include typical street cross-sections, road, sewer, and other underground utility profiles and plans. Details showing the width and type of pavement. Location, size, and type of off-site and on-site water and sewer facilities and other improvements, such as sidewalks, curbs and gutters, parks, street lighting, and fire hydrants, etc;
 5. Data Table containing the following:
 - a. Uses
 - b. Density
 - c. Open space calculations, as required by the zone
 - d. Parking analysis, as applicable
 6. Landscaping plan, including a data table relating to the applicable landscaping requirements of Chapter 18.76.
 7. Lighting plan as outlined in Section 18.78.050, including a data table relating to the applicable lighting requirements of Chapter 18.78.
 8. Exterior materials Board for all non-residential and multi-family buildings.
 9. Scaled color elevations of all non-residential and multi-family buildings, including a data table relating to the applicable design standards.
 10. Record of survey map;
 11. Checklist of all items discussed at preliminary approval.

17.38 Commercial Developments

17.38.010 Submission And Approval Process

17.38.020 Compliance With Zoning Provisions

17.38.030 Improvements

17.38.040 Landscape Requirements

17.38.050 Design Requirements

17.38.060 Additional And Special Requirements And Incentives

17.38.070 Platting Requirements

17.38.080 Supplementary Requirements

17.38.090 Guarantees Of Performance

17.38.100 Costs And Charges

17.38.010 Submission And Approval Process

All applications for commercial development approval are required to follow the submission, review, and approval process found in Chapter 17.16 and Chapter 17.20 herein, even in the circumstance where no subdivision is created by the development proposal, except that commercial projects are not required to submit a Preliminary Plan. Commercial Development shall mean any nonresidential development building greater than 1,000 total square feet, including but not limited to public, commercial, industrial and non-profit organization buildings or facilities. Exception: public buildings under 1,000 square feet are exempt. Each commercial project will be required to submit a Concept Plan and Site Plan. This requirement is intended to provide adequate project review in a manner consistent with other Heber City review processes.

The Concept Plan for a commercial development should include sufficient information about the project to allow the City Staff to complete a thorough review of the proposed project. Because the nature of each commercial project is different, consultation with planning staff will help each applicant to prepare the Concept Plan.

Commercial Site Plans are approved by the Planning Commission as outlined in Chapter 17.16.

Exception to this Subdivision Ordinance for commercial development are limited to the following:

1. More than one structure may be placed on a commercial parcel if the setback and all other requirements are satisfied.
2. The owner of commercial property does not need to provide a name for the commercial development.
3. Other requirements, which can be clearly demonstrated by the applicant, which are not applicable to commercial development.

In addition to the requirements listed above, all commercial developments within Heber City are subject to Chapter 17.14 Adequate Public Facilities, herein.

Each commercial development shall satisfy all applicable requirements of this Subdivision Ordinance, also known as Title 17 of the Heber City Code, and the Heber City Zoning Ordinance, also known as Title 18 of the Heber City Code.

As with all Ordinances of Heber City, if this Chapter is found to be in conflict with any other Heber City Ordinance or Resolution, the stricter of the two shall apply. Likewise, if any portion of this Chapter is found to be unlawful or invalid by a court of law, that section alone shall be removed and the remaining sections of this Chapter shall remain in effect.

4. Commercial Concept Review becomes null and void if not acted upon within six (6) months of its approval, and Commercial Site Plan Approval becomes null and void if not acted upon within one year of its approval. Site Plan Approvals may receive one extension upon written permission by the Planning Commission. The duration of the extension for Site Plan Approval shall not exceed twelve (12) months.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

Amended by Ord. 2003-04 on 4/3/2003

Amended by Ord. 2003-11 on 8/21/2003

17.38.020 Compliance With Zoning Provisions

All applications for commercial development are required to satisfy the applicable requirements found in the Heber City Zoning Ordinance, also know as Title 18 of the Heber City Code. Of particular note for

commercial developments are Chapter 18.72, Off-Street Parking, Chapter 18.76, Landscaping, and Chapter 18.104, Signs.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.030 Improvements

Improvements required for commercial developments shall be consistent with Chapter 17.40 herein. In addition to these requirements, all applications for commercial development will be required to submit all necessary information to determine the effect that approval of the project will have upon the transportation system of Heber City and what actions the city will need to impose, if any, in order to create, or maintain, a safe and efficient transportation system.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.040 Landscape Requirements

Each application for commercial development approval shall satisfy the requirements found in Chapter 18.76 of the Zoning Ordinance, also known as Title 18 of the Heber City Code, and the following requirements.

All setback areas adjacent to a public street shall be fully landscaped and properly maintained. Trees shall be planted at no less than twenty (20) feet on center, on average, and shall have no less than a two (2) inch caliper, except that no trees shall be planted within forty-five (45) feet of an intersection clear view area. Trees may be planted in clusters to create a more natural and/or screening effect, if appropriate.

All ground areas shall contain grass, or another ground cover acceptable to the Planning Commission, and shall be irrigated sufficiently. Shrubs, flower beds, decorative rocks, and other appropriate landscaping is highly encouraged.

All landscaped areas shall be maintained using a sprinkling and/or irrigation system which is capable of being engaged automatically on a regular basis. Each applicant for commercial development shall submit a complete and detailed landscaping plan for review by the Planning Commission concurrently with submission of other documents for review by the Planning Commission.

All landscaped areas shall be maintained on a regular basis and be kept neat and clean. If the Zoning Administrator determines the maintenance requirement has not been satisfied, the Zoning Administrator shall notify the property owner. The Zoning Administrator will detail the lack of maintenance and inform the owner that a continued lack of maintenance will warrant issuance of a Class C misdemeanor charge against the property owner under the authority of the Utah Code §10-9-1003 and Chapter 17.68 herein.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.050 Design Requirements

In addition to the requirements of the Heber City Subdivision and Zoning Ordinances, the following design requirements shall apply to each commercial development approved under this Chapter.

1. TRASH STORAGE. No trash, used materials, or wrecked or abandoned vehicles or equipment shall be stored in an open area.
2. TRASH COLLECTION AREAS. All trash collection areas shall be designed to be compatible with the proposed project.
3. LIMITED ACCESS. Generally speaking, commercial zones in Heber City are located in areas with a higher potential for traffic congestion. Therefore, access to commercial developments

shall be limited to the extent possible in order to maintain traffic flow. Access should be addressed in an appropriate manner in accordance with section 17.38.030 herein.

4. COMPATIBILITY. The Planning Commission may make recommendations to the applicant in order to improve compatibility with surrounding development. This requirement is intended to ensure future compatibility with the subject proposal as well, and should be viewed in that manner by each applicant. If changes to the anticipated structure are made, these changes should be submitted to the Zoning Administrator at the earliest possible date. The Zoning Administrator will determine whether the changes need to be reviewed by the Planning Commission.
5. ADOPTION OF DESIGN CRITERIA. The March 2006 Heber City Design Compatibility Criteria for Commercial Development in the "Historic" Commercial C-3 Zone, attached as Exhibit A, is adopted herein by reference. Copies of the Heber City Design Criteria shall be on file in the City Recorder's Office for the use and examination of the public.
 1. APPLICABILITY. General. Where, in any specific case, differences between the Heber City Design Compatibility Criteria for the C-3 Zone and the adopted Building Codes specify different materials, methods of construction or other requirements, the specific requirements of the Building Code shall be applicable.
6. ADOPTION OF DESIGN CRITERIA. The November, 2006, Heber City Commercial Districts: C-2 and C-4 Zones Design Standards and Guidelines, attached as Exhibit A, is adopted herein by reference. Copies of the Heber City C-2 and C-4 Design Standards and Guidelines shall be on file in the City Recorder's Office for the use and examination of the public.
 1. APPLICABILITY. Where, in any specific case, differences between the Heber City C-2 and C-4 Zone Design Standards and Guidelines and the adopted Building Codes specify different materials, methods of construction or other requirements, the specific requirements of the Building Code shall be applicable.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

Amended by Ord. 2001-13 on 8/16/2001

Amended by Ord. 2006-13 on 6/15/2006

Amended by Ord. 2006-29 on 11/16/2006

17.38.060 Additional And Special Requirements And Incentives

The following requirements are supplemental to the other requirements of this Chapter and are intended to address more specific commercial development concerns.

1. INGRESS and EGRESS. Each commercial development is required to incorporate two points of ingress and egress to the proposed development. The ingress and egress shall be consistent to Chapter 17.24.130 herein. In addition to Chapter 17.24.130, no point of ingress and/or egress shall be located closer than one hundred (100) feet from another point of ingress and/or egress along the same public street. This requirement may be waived by the Planning Commission if necessary and appropriate.
2. STORAGE and WAREHOUSE DEVELOPMENTS. All storage doors, entrances into storage and warehousing areas, and parking in storage and warehouse developments shall be internally located and not located on a public street. Internal streets should be constructed at a width sufficient to allow movement of all anticipated vehicles, including fire and other emergency vehicles. Each development of this type shall be reviewed by the Heber City Fire Marshall and must meet this requirement, as evidenced by a letter from the Fire Marshall. It is the responsibility of the applicant to demonstrate that adequate traffic flow can be accomplished.

Heber City acknowledges the need for adequate security in these types of developments. However, provisions should be made which allow authorized access for public

safety employees into these developments for public and personal safety. This includes access to entrance codes, electronic opening devices, lock combinations, and the like.

All storage and warehouse developments shall be fenced in a manner which will provide adequate security and a deterrent from public access. These fences should be kept in good repair. Fencing other than chain link which is similar in design to other structures within the development is highly desirable. The rear sides of buildings which provide adequate security may satisfy this requirement.

3. DENSITY INCENTIVES. Storage and warehouse developments which provide design features that enhance the aesthetic appearance of the project are entitled to consideration of an increase in the density of the project. Density incentives shall be as follows:
 1. Developments which provide fencing that is not chain link and use materials compatible with the materials and colors used in the construction of the structures within the development, or are constructed from wood or other attractive material, as determined by the Planning Commission, are entitled to a ten (10) percent increase in total project density. The rear sides of buildings which provide adequate security may be used for this purpose.
 2. Developments which provide multi-pitched roof lines through the use of dormers and gables, or the like, whether real or false facade shall be entitled to a ten (10) percent increase in total project density. In order to qualify for a density bonus under this paragraph, the structure must contain a break in pitch, which is roughly perpendicular to the roof line, at intervals of not more than forty (40) lineal feet of vertical roof line.
 3. Developments which use natural materials and colors such as brick (not intended to be defined as cinder block), wood siding, stucco, or other attractive materials as found acceptable to the Planning Commission in the construction of all structure(s) in the commercial development which face onto public streets shall be entitled to a ten (10) percent increase in total project density. These incentives are provided in order to encourage a higher standard of development. If the Planning Commission determines that a project is not enhanced positively through the efforts of a developer to obtain a density incentive, the Planning Commission may reduce the percentage, or deny the increase in total project density.

Each of the incentives are exclusive of the other. Therefore, an applicant may receive a total of thirty (30) percent increased project density.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.070 Platting Requirements

All commercial developments must prepare a final plat in accordance with Chapter 17.44 herein. In addition to the requirements of Chapter 17.44, commercial developments shall include with the plat the approved landscaping plan, and traffic information in accordance with Chapter 17.38.030 herein shall be submitted in a form capable of being recorded in the office of the Wasatch County Recorder.

In the case of storage and warehouse developments, if a density incentive was approved, information pertaining to the incentive and all conditions relating thereto shall also be submitted in a form capable of being recorded in the office of the Wasatch County Recorder.

(Ord. 96-04B, 1996)

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.080 Supplementary Requirements

Each of the following requirements are supplementary to this part. They constitute requirements for Chapter 17.38 only and are adopted under Chapter 17.06 of this Title. Each of these supplementary requirements must be satisfied prior to approval of an application for commercial development.

1. **LAYOUT OF BUILDINGS.** Unlike other developments approved under this Title, commercial developments may have more than one main structure per parcel. In such cases the applicant shall provide a project master plan to the Planning Commission indicating the location and size of each proposed structure. Additionally, the project master plan shall indicate accessory buildings, if any. Each structure in the commercial development is required to satisfy the building permit requirements of Title 18.12.
2. **SETBACKS.** Setback requirements in commercial zones may be flexible, but must be approved by the Planning Commission. The Planning Commission shall consider impacts on adjacent parcels, traffic, pedestrian access, landscaping and other relevant issues when recommending setback requirements.
3. **SURFACE WATER DRAINAGE.** Surface water from roof tops, parking lots or irrigation ditches shall not be allowed to drain onto adjacent lots or streets except after written agreement between the parties involved.
4. **FUTURE DEVELOPMENT.** Whenever a front or side yard is required for a building which abuts on a proposed street which has not been constructed but which has been designated by the Planning Commission as a future street, the depth of such front or side yard shall be measured from the planned street lines.
5. **CONCESSIONS.** Concessions, including but not limited to amusement devices, recreational buildings or refreshment stands, shall be required to obtain approval from the Planning Commission and purchase a business license prior to operating such a business on any commercial site. Such operations may be denied by the Planning Commission if deemed inappropriate due to location, hazard, appearance, etc.
6. **SOLID WASTE AND SEWAGE.** Each commercial development shall be reviewed by the Solid Waste Department for recommended solid waste disposal. Where domestic sewage disposal facilities are used which are not connected to a public sewer, approval of such facilities shall be obtained from the Health Department before a building permit is issued.
7. **GASOLINE PUMP ISLAND LOCATION.** Gasoline pump islands shall be set back not less than fifteen (15) feet from any street line to which the pump island is parallel and not less than twelve (12) feet from any residential zone boundary line. If the pump island is set in an angle to the property, it shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps set closer than twelve (12) feet from any street lines, not closer than ten (10) feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five (75) by one hundred (100) feet in size. Canopies over pump islands may extend to within five (5) feet of the property lines.
8. **MOTOR VEHICLE ACCESS.** Access to all buildings in a commercial project shall be controlled as follows:
 1. Each driveway shall be not more than thirty (30) feet in width in any commercial or industrial zone measured at right angles to centerline of the driveway. On corner lots, no driveway shall be closer than fifty (50) feet to the point of intersection of the front property line which abuts upon a street.
 2. Each commercial development shall install curb and gutter to facilitate surface drainage.
9. **POLLUTION PREVENTION.** Any use which emits or discharges gases, fumes, dust, glare, noise, or other pollutants into the atmosphere in amounts which exceed the standards as prescribed by the Utah State Air Conservation Board or the Board of Health and any use which emits or discharges liquids or solid material onto the soil or water in amounts which results in

pollutants entering ground water in amounts exceeding the standards prescribed by the Utah State Water Pollution Control Board or the Board of Health, shall be prohibited.

10. Each commercial development shall present a plan for public utilities and services. These plans may be reviewed by utility providers for recommendations.
11. Each commercial development shall satisfy the parking requirements found in Title 18.72 for the appropriate zone.
12. Each commercial development shall satisfy all applicable requirements of both the Subdivision (Title 17) and Zoning (Title 18) Ordinance of Heber City.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.090 Guarantees Of Performance

All commercial projects are subject to the guarantees of performance requirements listed in Chapter 17.52 herein.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

17.38.100 Costs And Charges

All commercial projects are subject to the fee schedule listed in Chapter 17.56 herein. However, review fees under section 17.56.015 for commercial projects shall be as follows: Concept Plat \$75; Final Plat \$75 + \$25 per acre. In addition, the developer shall pay for all engineering review fees and upon final plat approval an inspection fee shall be escrowed with the City or added to the Standard performance bond to insure the payment of the cost of inspection.

All other costs, fees, and charges shall be consistent with Chapter 17.52 herein.

HISTORY

Adopted by Ord. 96-04B on 6/20/1996

18.22.040 Approval Process

1. All developments within the COSZ shall be approved by the Land Use Authority as outlined in Chapter 17.16.
2. 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.
3. Master Plan. The purpose of the Master Plan Review is to establish general feasibility and clearly define major elements of the development early in the planning process. The Master 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 Master Plan still needs to be carefully prepared and thoroughly reviewed to be useful. As part of the Master 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:
 1. Location.
 2. General size. (Meeting a 50% minimum open space requirement)
 3. Description of how the open space plan conforms to the standards for open space.
 4. 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";
 1. Topographic information related to such issues involving the project.
 2. Information to identify potential sensitive land issues and a plan for how to address these issues.
 3. 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.
4. Preliminary Plan. After review of the Master Plan, 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 review. 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:
 1. Total area, open space, building area, and dedicated streets;
 2. Drives and parking (all the above shown in acreage and percentage);
 3. Number of units and project density;
 4. Types of units by number of bedrooms, where applicable; and
 5. 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:
 1. Design theme of project
 2. List of common area amenities
 3. 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.
5. Final Approval. The developer shall submit final development plans to the City. Said plans shall conform to all City Engineering and Title 17 Subdivision standards and requirements of the Heber City Municipal Code.

ATTEST

Debra W. Coles

Date: 9/21/2021

RECORDER

Date of First Recording: