

+SUBDIVISION REGULATIONS

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Section

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SECTION 1

GENERAL SUBDIVISION PROVISIONS

3-2-1-1: SHORT TITLE:

This title shall be known and may be cited as the SUBDIVISION ORDINANCE OF THE JEFFERSON COUNTY, IDAHO.

3-2-1-2: AUTHORITY:

These regulations are authorized by title 50, chapter 13 of the Idaho Code; title 67, chapter 65 of the Idaho Code; and article 12, section 2 of the Idaho constitution.

3-2-1-3: PURPOSE:

The purpose of these regulations is to promote the public health, safety and general welfare, and to provide for:

- A. The harmonious development of the county and its area of impact;
- B. The coordination of streets and roads within a subdivision with other existing or planned streets and roads;
- C. Adequate open space for travel, light, air and recreation;
- D. Adequate transportation, water drainage and sanitary facilities;
- E. The avoidance of the scattered subdivision of land that would result in either of the following:
 - 1. The lack of water supply, sewer service, drainage, transportation or other public services; or
 - 2. The unnecessary imposition of an excessive expenditure of public funds for the supply of such services;
- F. The requirements as to the extent and the manner in which:
 - 1. Roads shall be created, improved and maintained; and
 - 2. Water and sewer and other utility mains, piping connection, or other facilities shall be installed;
- G. The manner and form of making and filing of any plats; and

H. The administration of these regulations by defining the powers and duties of approving authorities.

3-2-1-4: JURISDICTION:

These regulations shall apply to the subdivision of land within the corporate limits of the county including the property outside the corporate limits of the city as defined by the city and Jefferson County under the requirements of sections 50-1306 and 67-6526, Idaho Code.

3-1-5: INTERPRETATION:

All subdivisions as herein defined shall be submitted for approval by the council and shall comply with the provisions of these regulations. These regulations shall supplement all other regulations, and where at variance with other laws, regulations, ordinances or resolutions, the more restrictive requirements shall apply

3-1-6: RULES AND DEFINITIONS:

Terms or words used herein shall be interpreted as follows:

- A. The present tense includes the past or future tense, the singular includes the plural and the plural includes the singular.
- B. The word "shall" is mandatory; the word "may" is permissive; and the word "should" is preferred.
- C. The masculine shall include the feminine.

As used in this title, the following words and terms shall have the meanings ascribed to them in this section:

ADMINISTRATOR: An official having knowledge in the principles and practices of subdividing, who is appointed by the county commissioners to administer this title.

ALLEY: A minor street providing secondary access at the back or side of a property otherwise abutting a street.

ARTERIAL STREET: A street designated for the purpose of carrying fast and/or heavy traffic.

BLOCK: A group of lots, tracts or parcels within well defined boundaries, usually streets.

BUILDING: A structure designed or used as the living quarters for one or more families, or a structure designed for use as an accessory to a structure used for living quarters or a structure designed for commercial or industrial uses.

BUILDING SETBACK LINE: An imaginary line established by a zoning ordinance that requires all buildings to be set back a certain distance from lot lines.

BUILDING SITE: An area proposed or provided and improved by grading, filling, excavation or other means for erecting pads for buildings.

CEMETERY: A lot that has been platted for the selling of sites for the burial of animal or human remains.

CITY: Incorporated areas within Jefferson County, Idaho.

CENTRAL SEWAGE SYSTEM: A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

CLUSTERING: A technique which allows lots to be reduced in size and buildings sited closer together provided the total development density does not exceed that which could be constructed on the site under conventional zoning and the remaining land is utilized for open space or public purpose.

COUNTY COMMISSIONERS: The county commissioners of the incorporated cities within Jefferson County.

COLLECTOR STREET: A street designated for the purpose of carrying traffic from minor streets to other collector streets and/or arterial streets.

COMMISSION: The planning and zoning commission of the county.

COMPREHENSIVE PLAN: An adopted document that herein may be referred to as a comprehensive plan or comprehensive development plan.

CONDOMINIUM: An estate consisting of an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof; together with a separate interest in real property, in an interest or interests in real property or in any combination thereof.

CONSTRUCTION PLAN: The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.

COUNTY RECORDER: The office of the Jefferson County recorder.

COVENANT: A written promise or pledge.

CUL-DE-SAC: A street connected to another street at one end only and provided with a turnaround space at its terminus.

CULVERT: A drain that channels water under a bridge, street, road or driveway.

DEAD END STREET: A street connecting to another street at one end only and not having provision for vehicular turn around at its terminus.

DEDICATION: The setting apart of land or interests in land for use by the public by ordinance, resolution or entry in the official minutes as by the recording of a plat. Dedicated land becomes public upon the acceptance by the county.

DEVELOPER: Authorized agent(s) of a subdivider or the subdivider himself.

DITCH: An open channel artificially constructed.

DRAINAGE: Water that runs off the surfaces of a site or development. Synonymous with "runoff" as used herein.

DRAINAGE CHANNEL: A natural channel, ditch, pipe or other conduit for liquid, naturally or artificially situated to receive storm drainage at an inlet point or multiple inlet points and then convey such storm drainage to an outlet point.

DRAINAGE FACILITY: An artificially constructed or naturally occurring drainage channel, or a retention facility, or partial retention facility.

DRAINAGE RECEIVER: A government entity, canal company or special taxing district which maintains a drainage facility adjacent to the development and agrees, as evidenced by a signed and dated public document, to accept a defined quantity of storm drainage from the development. This definition also applies to Jefferson County, with regard to any runoff from any development to any street.

Notice is particularly given that the presence of a natural drainage channel does not relieve the developer from the requirement that any drainage must be retained unless it is formally accepted by a drainage receiver.

DRAINAGEWAY: A drainage channel or drainage ditch.

DWELLING UNIT: Any building or other structure proposed or built for occupancy by people.

EASEMENT: A grant by a property owner to persons or to the public to use land for specific purposes. Also, a right acquired by prescription.

ENGINEER: Any person who is licensed in the state to practice professional engineering.

EXPENDITURE: A sum of money paid out in return for some benefit or to fulfill some obligation. The term includes binding contractual commitments whether by development agreement or otherwise to make future expenditures as well as any other substantial change in position.

FLEXIBLE ZONING: Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permit and special uses, planned unit developments, group housing projects, community unit projects, and average density or density zoning projects.

FLOODPLAIN: The relatively flat area or low land adjoining the channel of a river, stream, lake or other body of water which has been or may be covered by water of a flood of 100-year frequency. The floodplain includes the channel, floodway or floodway fringe, as established pursuant to engineering practices of the U.S. army corps of engineers, as follows:

Channel: A natural or artificial watercourse of perceptible extent, with definite bend and banks to confine and conduct continuously or periodically flowing water.

Flood: The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water.

Flood Of 100-Year Frequency: A flood magnitude which has a one percent (1%) chance of being equaled or exceeded in any given year.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

Floodway Fringe: That part of the floodplain which is beyond the floodway. Such areas include those portions of the floodplain which will be inundated by a flood of 100-year frequency.

FRONTAGE STREET: A minor street, parallel to and adjacent to an arterial street, to provide access to abutting properties.

GOVERNING BODY: The county commissioners of the Jefferson County, Idaho.

HIGHWAY: A street designated as a highway by an appropriate state or federal agency.

HILLSIDE SUBDIVISION: Any subdivision, or portion thereof, having an average slope of ten percent (10%) or more.

IMPROVEMENT: Any alteration to the land or other physical construction associated with subdivision and building site developments.

LANDSCAPING: Acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers, and shade trees.

LARGE SCALE DEVELOPMENT: A subdivision, the size of which consists of fifty (50) or more lots or dwelling units.

LOOP: A minor street in which both terminal points are on the same street of origin.

LOT: Any parcel of real property of suitable size as required in these regulations and existing zoning ordinance; identified on a recorded subdivision plat.

LOT AREA: The area of any lot shall be determined exclusive of street, highway, alley, road or rights of way of record.

LOT TYPES: As used in these regulations, lot types are as follows:

A. Corner Lot: A lot located at the intersections of two (2) or more streets.

B. Interior Lot: A lot other than a corner lot with frontage on only one street other than a corner lot.

C. Through Lot: A lot with frontage on more than one street other than a corner lot.

MAJOR SUBDIVISION: Any subdivision not able to qualify as a minor subdivision, including, but not limited to, subdivision of two (2) or more lots, or any size subdivision requiring any new street or extension of the local government facilities, or the creation of any public improvements.

MINOR STREET: A street which has the primary purpose of providing access to abutting properties.

MINOR SUBDIVISION: Any subdivision containing not more than ten (10) lots fronting on an existing street; not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements; and not adversely affecting the remainder of the parcel or adjoining property; and not in conflict with any provision or portion of the comprehensive plan, official map, zoning title 3, or this title.

MOBILE HOME: A detached single-family dwelling unit with all of the following characteristics:

A. Designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower, bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems;

- B. Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers, or detached wheels; and
- C. Arrived at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, a connection to utilities and the like.

MOBILE HOME SUBDIVISION: A subdivision designed and intended for exclusive mobile home residential use.

MONEY IN LIEU OF LAND: Payment of money into a municipally earmarked fund to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on site.

MONUMENT: Any permanent marker either of concrete, galvanized iron pipe or iron or steel rods, used to identify any tract, parcel, lot or street lines, as specified in section 50-1303, Idaho Code.

OPEN SPACE: A common area platted as a separate lot, or an area dedicated to and accepted by the county, substantially open to the sky, exclusive of streets, buildings and other covered structures.

ORIGINAL PARCEL OF LAND: An original parcel or tract as recorded on any plat of record on file in the office of the County Recorder, or any unplatted contiguous parcel of land held in one ownership as of January 2008.

OWNER: An individual, firm, association, syndicate, partnership or corporation having any interest, legal or equitable, in the land to be subdivided.

PARCEL: A plot or tract of land with a metes and bounds legal description (unplatted).

PARTIAL RETENTION FACILITY: A constructed basin or underground storage vessel built to retain a portion of the storm drainage it receives until it is absorbed into the soil strata, and to allow not more than an amount as designated by agreement with an adjacent drainage receiver to pass into an adjacent drainageway or drainage facility.

PARTIAL RIGHT OF WAY: A dedicated right of way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.

PERFORMANCE BOND: An amount of money or other negotiable security paid by the subdivider or his surety to the Planning and Zoning Administrator which guarantees that the subdivider will perform all actions required by the governing body regarding an approved plat, and provides that if the subdivider defaults and fails to comply with

the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

PLANNED UNIT DEVELOPMENT: A subdivision designed as a combination of residential, commercial and industrial uses or any combination thereof planned for a tract of land to be developed as a unit under single ownership or control, which is developed for the purpose of selling individual lots or estates, fronting on dedicated streets, which may include two (2) or more principal buildings.

PLAT: The drawing, mapping or planning of a subdivision, cemetery, town site or other tract of land or a replatting of such including certifications, descriptions and approvals including the following:

- A. Preliminary Plat: The first formal presentation by drawings of a proposed subdivision; and
- B. Final Plat: The final and formal presentation by drawings of an approved subdivision development, the original and one copy of which is filed with the county clerk and recorder.

PREDEVELOPMENT RUNOFF: The runoff quantity that would have been produced during the design storm from the site in its original native soil condition, prior to any construction of buildings or of modified surfaces.

PRIVATE STREET: A right of way which provides access to adjacent properties under separate ownership and which is not dedicated to or officially accepted by a public entity, but not including a driveway as defined in subsection 3-3-1J of this title.

RESERVE STRIP: A strip of land between a partial street and adjacent property which is reserved or held in public ownership for future street extension or widening.

RETENTION FACILITY: A constructed basin or constructed underground storage vessel built to retain all of the storm drainage it receives until it is absorbed into the soil strata.

RIGHT OF WAY: A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks and other public utilities or service areas.

SCREENING: Either (a) strip at least ten (10) feet wide of densely planted (or having equivalent natural growth) shrubs or trees at least four (4) feet high at the time of planning, or a type that will form a year-round dense screen at least six (6) feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high.

SKETCH PLAT: A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning and Zoning Administrator as to the form of the plat and the objectives of these regulations.

STANDARD SPECIFICATIONS: The specifications as specified in this title or as officially adopted by the county.

STATE: The state of Idaho.

STORAGE VESSEL: An earthen basin or tank or vault structure employed to store liquid. Earthen basins used to store storm drainage may be filled with porous media (usually gravel) to attain structural stability, in which case the volume of available storage is taken as the volume of the interstitial voids of the porous media.

STORM DRAINAGE: The water running off the surfaces of a site as a result of precipitation on the site (including rain, hail melt water and snow melt water).

STREET: A right of way which provides access to adjacent properties, the dedication of which has been officially accepted. The term "street" also includes the terms highway, thoroughfare, parkway, road, avenue, boulevard, land, place and other such terms.

SUBDIVIDER: The individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of this title. The subdivider need not be the owner of the property; however, he shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.

SUBDIVISION: The result of an act of dividing any lot, tract or parcel of land into two (2) or more parts for the purpose of transfer of ownership or development, which shall also include the dedication of a public street and the addition to, or creation of, a cemetery. Subdivisions shall be divided into "minor subdivisions", "major subdivisions" and "large scale developments", as those terms are defined in this section. However, this title shall not apply to any of the following:

- A. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements, and does not increase the original number of lots in any block of the recorded plat;
- B. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property;
- C. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code;
- D. Widening of existing streets to conform to the comprehensive plan;

- E. Acquisition of street rights of way by a public agency in conformance with the comprehensive plan; and
- F. The exchange of land for the purpose of straightening property boundaries which does not result in the change of present land usage.

SURVEYOR: Any person who is licensed in the state as a public land surveyor to do professional surveying.

UTILITIES: Installations for conducting water, sewage, gas, electricity, television, storm water and similar facilities providing service to and used by the public.

VARIANCE: A modification of the requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and the variance is not in conflict with the public interest.

VICINITY MAP: A small scale map showing the location of a tract of land in relation to a larger area.

SECTION 2
SUBDIVISION PLATS AND PROCEDURES

3-2-1: APPLICATION FOR SUBDIVISION APPROVAL GENERALLY:

Any person desiring to create a "subdivision" as herein defined shall submit all necessary applications to the administrator.

3-2-2: PREAPPLICATION PROCEDURE:

A. Submission of Preapplication: The subdivider may submit a preapplication to enable the administrator to review and comment on the proposed subdivision.

B. Sketch Plan: The preapplication shall include at least one copy of a sketch plan. The sketch plan shall include the entire developmental scheme of the proposed subdivision, in schematic form, and including the following:

1. The general layout and approximate dimension of streets, blocks and lots in sketch form;
2. The existing conditions and characteristics of the land on and adjacent to the proposed subdivision site; and
3. The areas set aside for schools, parks and other public facilities.

C. Action By Administrator: The administrator shall notify the subdivider within fifteen (15) days from the date of receipt of an acceptable preapplication as to the general conformance or nonconformance of the proposal with this title, shall provide the necessary forms and checklists and shall comment on the following:

1. Compliance of the proposed development with existing local or state governmental goals and objectives or comprehensive plans.
2. Determination if additional special permits or ordinance conflicts such as rezone, special development permit or variance, are needed and the manner of coordinating such permits.
3. The county shall reserve the right to require studies to verify impacts on infrastructure, traffic and any other items that may have an impact within the county.
4. Consideration of any unique environmental features or hazardous concerns that may be directly or indirectly associated with the subject property such as areas that have been designated by the state of Idaho as areas of critical environmental concern, unique plant or animal life, flood plain, airport flight pattern and the like.
5. Consideration of other local and state governmental agencies that the subdivider should contact before preparing a preliminary plat.

3-2-3: PRELIMINARY PLAT:

A. Filing Of Preliminary Plat Application And Data: The subdivider shall file with the administrator a complete subdivision application form and preliminary plat data as required in this title.

B. Combining Preliminary and Final Plat In Minor Subdivisions: The applicant may request that the subdivision application be processed as both a preliminary and final plat if all the following exist:

1. The proposed subdivision does not exceed ten (10) lots;
2. No new street dedication or street widening is involved;
3. No major special development considerations are involved such as development in a flood plain, hillside development or the like;
4. All required information for both preliminary and final plat is complete and in an acceptable form; and
5. The proposed subdivision is not in conflict with the comprehensive plan or any provision of the zoning title of the county.

A request to combine both preliminary plat and final plat into one application shall be acted upon by the commission upon recommendation of the zoning administrator.

C. Required Information And Data:

1. The contents of the preliminary plat and related information shall be in such a form as stipulated by the county commissioners; however, any additional maps or data deemed necessary by the administrator may also be required.

2. The subdivider shall submit to the administrator at least the following:

a. Six (6) copies of the preliminary plat of the proposed subdivision, drawn in accordance with the requirements hereinafter stated. Each copy of the preliminary plat shall be on good quality paper, shall have the dimensions of not less than twenty four inches by thirty six inches (24" x 36"), shall be drawn to a scale of not less than one inch to one hundred feet (1" = 100'), shall show the drafting date, and shall indicate thereon, by arrow, the generally northerly direction;

b. Six (6) sets of preliminary engineering plans (not meant to be cross sections or detailed designs) for streets, water, sewers, sidewalks and other required public improvements; however, such engineering plans shall contain sufficient information and detail to make a determination as to conformance of the proposed improvements to applicable regulations, ordinances and standards;

c. A written application requesting approval of the preliminary plan; and

d. Appropriate information that sufficiently details the proposed development within any special development area such as hillside, planned unit development, flood plain, cemetery, mobile home, large scale development, hazardous and unique areas of development.

3. The following shall be submitted separately:

a. The name of the proposed subdivision;

- b. The name, address and telephone numbers of the subdivider or subdividers and the engineer or surveyor who prepared the plat;
- c. The name and address of all adjoining owners of property and residents within three hundred feet (300') of the external boundaries of the land being considered, whether or not bisected by a public right of way as shown on record in the county assessor's office;
- d. The legal description of the subdivision;
- e. The statement of the intended use of the proposed subdivision, such as residential single-family, two-family and multiple housing, commercial, industrial, recreational or agricultural and a designation of any sites proposed for parks, playgrounds, schools, churches or other public uses;
- f. A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development. A map shall be submitted showing the location of existing buildings, water bodies or courses and the location of currently dedicated streets at the point where they adjoin and/or are immediately adjacent; provided, that actual measured distances shall not be required;
- g. A vicinity map showing the relationship of the proposed plat to the surrounding area (1/2-mile radius, scale option);
- h. The land use and existing zoning of the proposed subdivision and the adjacent land;
- i. Streets, street names, rights of way and roadway widths, including adjoining streets or roadways;
- j. Lot lines and blocks showing the dimensions and numbers of each;
- k. Contour lines, shown at five foot (5') intervals where land slope is greater than ten percent (10%) and at two foot (2') intervals where land slope is ten percent (10%) or less, referenced to an established bench mark, including location and elevation;
- l. A site report as required by the appropriate health district where individual wells or septic tanks are proposed;
- m. Any proposed or existing utilities, including, but not limited to, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants and their respective profiles;
- n. Any dedications to the public and/or easements, together with a statement of location, dimensions and purpose of such;
- o. Any additional required information for special developments as specified in section 5 of this title; and
- p. A statement as to whether or not a variance, as specified in section 3-6-3 of this title, will be requested with respect to any provision of this title describing the particular provision, the variance requested and the reasons therefore.

D. Procedure For Approval Of Preliminary Plat:

1. Administrative Review:

- a. Certification By Administrator, Public Hearing: Upon receipt of the preliminary plat and all other required data as provided for herein, the administrator shall certify the application as complete and shall affix the date of application acceptance thereon. The administrator shall schedule a public hearing before the planning and zoning commission, which hearing shall be held within forty five (45) days of the date of certification of a complete application.
 - b. Review By Other Agencies: The administrator shall refer the preliminary plat and application to as many governmental agencies as deemed necessary. Such agencies may include the following:
 - (1) Other governing bodies having joint jurisdiction;
 - (2) The appropriate utility companies, irrigation companies or districts and drainage districts;
 - (3) The superintendent of the school district; and
 - (4) Other agencies having an interest in the proposed subdivision.
 - c. Recommendation By Administrator: The zoning administrator shall provide that any transmittal as provided in subsection D1b of this section will be returned within fifteen (15) days. At the end of the fifteen (15) day period, the administrator shall prepare a recommendation to the commission. All agency responses shall be supplied by the zoning administrator to the planning and zoning commission.
2. Public Notice: The administrator shall provide notice in accordance with the requirements of state statute.
3. Action By Commission:
- a. Commission's Findings: In determining the acceptance of a proposed subdivision, the commission shall consider the objectives of this title and at least the following:
 - (1) The conformance of the subdivision with the comprehensive development plan;
 - (2) The availability of public services to accommodate the proposed development;
 - (3) The continuity of the proposed development with the capital improvement program;
 - (4) The public financial capability of supporting services for the proposed development; and
 - (5) The other health, safety and environmental problems that may be brought to the commission's attention.
 - b. Action On Preliminary Plat: The commission may recommend approval, conditional approval, disapproval or tabling for a period not to exceed thirty five (35) days. Such action shall occur within thirty five (35) days of the date of the regular meeting at which the plat is first considered by the commission. The action, and the reasons for such action shall be stated in writing by the administrator and forwarded to the applicant. The

administrator shall also forward a statement of the action taken and the reasons for such action together with a copy of the preliminary plat to the council for its action. Upon granting or denying a preliminary plat, the commission shall specify:

- (1) The ordinance and standards used in evaluating the application;
- (2) The reasons for recommending approval or denial; and
- (3) The actions if any, that the applicant could take to obtain approval of the preliminary plat.

c. Action On Combined Preliminary And Final Plat: If the commission's conclusion is favorable to the subdivider's request for the subdivision to be considered as both a preliminary plat and final plat, then a recommendation shall be forwarded to the county commissioners in the same manner as herein specified for a final plat. The commission may recommend that the combined application be approved, approved conditionally or disapproved.

4. Action By Council: Within forty five (45) days after receipt of the commission's recommendation and following the notice requirements as set forth in state statute, the county commissioners shall make findings as required in subsection D3b of this section. The county commissioners shall approve, approve conditionally or disapprove the preliminary plat within thirty (30) days of the public hearing conducted to consider the commission's recommendation.

E. Approval Period:

1. Failure to file with and obtain the certification of the acceptance of the final plat application by the administrator within one year after action by the county commissioners shall cause all approvals of said preliminary plat to be null and void, unless an extension of time is applied for by the subdivider and granted by the county commissioners.
2. In the event that the development of the preliminary plat is made in successive, contiguous segments in an orderly and reasonable manner, and conforms such segments, if submitted within successive intervals for one year, it may be considered for final approval without resubmission for preliminary plat approval.

3-2-4: FINAL PLAT:

A. Filing Of Final Plat: After the approval or conditional approval of the preliminary plat, the subdivider may cause the total parcel or any part thereof to be surveyed and a final plat prepared in accordance with the approved preliminary plat. The subdivider shall submit to the administrator the following:

1. Three (3) copies of the final plat; and
2. Three (3) copies of the final engineering construction drawings for streets, water, sewers, sidewalks and other public improvements.

B. Contents: The final plat shall include and be in compliance with all items required under title 50, chapter 13 of the Idaho Code and shall be prepared in

accordance with the specifications set forth in section 50-1304, Idaho Code. The final plat shall include at least the following:

1. A written application for approval of such final plat as stipulated by the county commissioners;
2. Proof of current ownership of the real property included in the proposed final plat;
3. Such other information as the administrator or county commissioners may deem necessary to establish whether or not all proper parties have signed and/or approved said final plat;
4. Conformance with the approved preliminary plat and meeting all requirements or conditions thereof;
5. Conformance with all requirements and provisions of this title;
6. Acceptable engineering practices and local standards;
7. The plat shall show building sites on each lot adjusted to setback requirements; and
8. The development agreement with the standard development requirements, as well as any other requirement outline in the preliminary plat approval.

C. Procedure For Approval Of Final Plat:

1. Review By Administrator:
 - a. Acceptance: Upon receipt of the final plat, and compliance with all other requirements as provided for herein, the administrator shall certify the application as complete and shall affix the date of acceptance thereon.
 - b. Resubmission Of Final Plat: The administrator shall review the final plat for compliance with the approved or conditionally approved preliminary plat. If the administrator determines that there is substantial difference in the final plat than that which was approved as a preliminary plat or conditions which have not been met, the administrator may require that the final plat be submitted to the commission and county commissioners in the same manner as required in the preliminary plat process.
 - c. Submission To The County commissioners: Upon the determination that the final plat is in compliance with the preliminary plat and all conditional requirements have been met, the administrator shall place the final plat on the county commissioners agenda within forty five (45) days from the date that an acceptable final plat application was received and acknowledged by the administrator.
2. Agency Review: The administrator may transmit one copy of the final plat, or other documents submitted, for review and recommendation to the departments and agencies as he deems necessary to ensure compliance with the preliminary approval and/or conditions of preliminary approval. Such agency review shall also include the construction standards of improvements, compliance with health standards, the cost estimate for all improvements and the legal review of the performance bond.

3. County commissioners Action: The county commissioners, at its next meeting following receipt of the administrator's report, shall consider the commission's finding and comments from concerned persons and agencies to arrive at a decision on the final plat. The county commissioners shall approve, approve conditionally, disapprove or table the final plat for additional information within one hundred and eighty (180) days of the date of the first regular meeting at which the plat is considered. A copy of the approved plat shall be filed with the administrator. Upon granting or denying the final plat, the county commissioners shall specify:
- a. The ordinance and standards used in evaluating the application;
 - b. The reasons for approval or denial; and
 - c. The actions, if any, that the applicant could take to obtain a permit.
- D. Conditional Approval Of Final Plat: With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:
1. The construction of improvements required by this title shall have been completed by the subdivider and approved by the county commissioners; or
 2. Surety acceptable to the county commissioners shall have been filed in the form of a cash deposit, certified check, negotiable bond, irrevocable bank letter of credit or surety bond.
- E. Approval Period: The final plat shall be filed with the county recorder within one year after written approval by the county commissioners. Otherwise such approval shall become null and void unless the subdivider, prior to said expiration date, applies for an extension of time and such extension is granted by the county commissioners.
- F. Required Certificates: The following certifications and signatures shall be included on the final plat prior to recording by the county recorder:
1. Certification and signature of the county commissioners verifying that the subdivision has been approved;
 2. Certification and signature of the Planning and Zoning Chairman and the Planning and Zoning Administrator verifying that the subdivision meets the requirements of the county and has been approved by the county commissioners; and
 3. Certification of the sanitation restriction on the face of the plat in accordance with the provisions of section 50-1326, Idaho Code.
- G. Record Of Final Plat: Upon approval of the final plat by the county commissioners, the subdivider's prepayment of recording fees, posting of surety bond or other acceptable guarantee and the inclusion of those certifications and signatures on the final plat as set forth in subsection F of this section, the subdivider shall furnish proof to the administrator that the final plat has been recorded.

3-2-5: FEES:

At the time of submission of an application for a preliminary plat and application for a final plat, a fee, as established in the official fee schedule of the county, shall be paid. There shall be no additional fee for the combining of the preliminary and final plats and there shall be no fee for a preapplication.

3-2-6: RECORD OF LOT, PLAT APPROVAL:

No final plat shall be filed with the county recorder or improvements made on the property until the plat has been acted upon by the commission and approved by the county commissioners.

3-2-7: SALE OF LOT, PLAT TO BE RECORDED:

No lots shall be sold until the plat has been recorded in the office of the county recorder.

3-2-8: LOT SPLITS:

Any time that an Original Parcel of Land is divided or partitioned into not more than three (3) parcels, or sites for the purpose of transfer of ownership or development, the following application process and procedures shall be followed:

A. Application: An application for parcel split on a form provided by the Zoning Administrator shall be submitted to the Zoning Administrator and shall contain, at a minimum, the following information:

1. Name, address, and telephone number of the applicant;
2. Legal description of property and proof of ownership or agency, most recent recorded deed;
3. Description of existing use;
4. Zoning district;
5. Description of parcels after proposed parcel split;
6. Description of proposed use;
7. Documentation of the permission of the owner of the parcel to be split.

B. Procedure: Prior to approving an application under this section, the Zoning Administrator shall make the following findings:

1. The minimum requirements under this code for acreage, density, parcel area and setback lines are fulfilled;
2. The proposed parcel split conforms with the Comprehensive Plan; and
3. The proposed parcel split will not adversely impact adjoining property interests.

C. Notice: Within ten (10) days after a decision has been rendered, the administrator shall provide the applicant with written notice of the action on the request.

SECTION 3

DESIGN STANDARDS

3-3-1: MINIMUM STANDARDS REQUIRED:

All plats submitted pursuant to the provisions of this title, and all subdivisions, improvements and facilities done, constructed or made in accordance with said provisions shall comply with the minimum design standards set forth in this section; provided, however, that any higher standards adopted by any road and bridge, the Idaho transportation department or health agency shall prevail over those set forth herein.

3-3-2: FLEXIBLE LOTS SIZE REQUIREMENTS:

As per outlined in section 3.12.0 titled Cluster Development Regulations of the Jefferson County zoning ordinance title 3.

3-3-3: STREETS AND ALLEYS:

3-3-3-1: LOCATION:

Street and road location shall conform to the following standards:

A. Street Location And Arrangements: When an official street plan or comprehensive development plan has been adopted, subdivision streets shall conform to such plans.

B. Minor Streets: Minor streets shall be so arranged as to discourage their use by through traffic.

C. Stub Streets: Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be such that said streets extend to the boundary line of the tract to make provisions for the future extension of said streets into adjacent areas, and shall have a cul-de-sac or temporary cul-de-sac. A reserve street may be required and held in public ownership.

D. Relation To Topography: Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients.

E. Public Alleys: Public alleys shall be provided in multiple dwelling or commercial subdivisions unless other provisions are made for service access and off street loading and parking. Dead end public alleys shall be prohibited in all cases.

F. Frontage Roads: Where a subdivision abuts or contains an arterial street, it shall be required that there be frontage roads approximately parallel to and on each side of such arterial street; or, such other treatment as is necessary for the adequate protection of residential properties and to separate through traffic from local traffic.

G. Cul-De-Sac Streets: Cul-de-sac streets shall not be more than five hundred feet (500') in length and shall terminate with an adequate circular turnaround having a minimum radius of fifty feet (50') of right of way with the following exceptions:

1. Alternative types of turnarounds for cul-de-sacs which will provide access to less than thirteen (13) dwelling units may be permitted by the county if approved by the fire department and the road and bridge having jurisdiction.
2. In zoning districts which prohibit densities greater than one dwelling unit per two (2) acres, cul-de-sac streets up to a maximum of one thousand five hundred

feet (1,500') in length may be permitted by the county if approved by the fire department and the road and bridge having jurisdiction. No more than twenty (20) dwelling units shall be permitted on said cul-de-sac.

3. In zoning districts which prohibit densities greater than one dwelling unit per five (5) acres, cul-de-sac streets up to a maximum of two thousand eight hundred feet (2,800') in length may be permitted by the county if approved by the fire department and the road and bridge having jurisdiction. No more than twenty (20) dwelling units shall be permitted on said cul-de-sac.

H. Half Streets: Half streets shall be prohibited except where unusual circumstances make such necessary to the reasonable development of a tract in conformance with this title and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.

I. Private Streets: Private Streets shall be prohibited to developments of more than three lots.

J. Driveways: Driveways providing access to no more than two (2) dwelling units shall be allowed within any subdivision.

3-3-3-2: STREET WIDTHS:

A. Width of Pavement: All streets unless already existing and paved shall be paved to a width of not less than thirty feet (30'). Said paving shall be completed to each lot before it is sold, and shall at least meet minimum Jefferson County standards for the quality and type of paving. Unless a surety bond has been filed with the Planning and Zoning Administrator

B. Notwithstanding subsection A of this section, access from a frontage road onto an arterial street shall be limited to one thousand five hundred feet (1,500') between points.

3-3-3-3: INTERSECTIONS:

Intersections shall conform to the following standards:

A. Angle Of Intersection: Angles of street and driveway intersections shall be approved by the road and bridge having jurisdiction.

B. Sight Triangles: Minimum clear sight distance at all street and driveway intersections shall be approved by the road and bridge department having jurisdiction.

C. Number Of Streets: No more than two (2) streets shall cross at any one intersection.

D. Existing Streets: Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with center-line offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where street intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred (800) feet apart.

3-3-3-4: STREET NAMES:

The naming of streets shall conform to the following standards:

- A. A street name shall not duplicate any existing street name within the county except where a new street is a continuation of an existing street. Street names that may be spelled differently but sound the same as existing street names shall not be used.
- B. All new streets shall be named as follows:
 - 1. Streets having a predominately north-south direction shall be named "avenue", except for section line streets which shall be named "road".
 - 2. Streets having a predominately east-west direction shall be named "street", except for section line streets which shall be named "road".
 - 3. Meandering streets having a predominately north-south direction shall be named "way".
 - 4. Meandering streets having a predominately east-west direction shall be named "drive".
 - 5. Cul-de-sacs having a predominately north-south direction shall be named "place".
 - 6. Cul-de-sacs having a predominately east-west direction shall be named "court".

3-3-3-5: PRIVATE STREETS:

From the effective date hereof, private streets shall not be permitted. It is not the intent of this code to preclude the development of alternate public street designs and right of way widths as may be approved by the County Commissioners and road and bridge department head of Jefferson County.

3-3-4: PEDESTRIAN WALKWAYS:

Right of way for pedestrian walkways in the middle of long blocks may be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. The pedestrian easement shall be at least ten feet (10') wide with a hard surface of either asphalt, concrete or similar. Engineering designs will be required to be submitted with the preliminary plat.

3-3-5: BLOCKS:

Every block shall be so designed as to provide two (2) tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary. Blocks shall not be less than five hundred feet (500') long in all cases.

3-3-6: LOTS:

Lots shall conform to the following standards:

- A. Zoning: Lots within any subdivision shall comply in all respects with the official height and area regulations as set forth in section 3-3-7 of this code.
- B. Future Arrangements: Where parcels of land are subdivided into unusually large lots (such as when large lots are approved for septic tanks), the parcels shall be divided, where feasible, so as to allow for future resubdividing into smaller parcels. Lot

arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks. Whenever such future subdividing or lot splitting is contemplated, the plan thereof shall be approved by the county commissioners prior to taking of such action.

C. Sufficient Area For Septic Tank: Where individual septic tanks have been authorized, sufficient area shall be provided for a replacement sewage disposal system.

3-3-6: EASEMENTS:

A. Unobstructed utility easements shall be provided along front lot lines, rear lot lines and side lot lines when deemed necessary. Total easement width shall not be less than twelve feet (12').

B. Unobstructed drainageway easements shall be provided as required by the county commissioners.

C. All natural drainage courses shall be left undisturbed or be improved in a manner which will improve the hydraulics and ease of maintenance of the channel.

3-3-7: LANDSCAPING /PLANTING STRIPS AND RESERVE STRIPS:

Planting strips and reserve strips shall conform to the following standards:

A. Planting Strips/Buffer Areas: Landscape/Planting strips/buffer areas shall be required to be placed next to incompatible features such as highways, railroads, commercial or industrial uses to screen the view from residential properties and to provide noise mitigation for those residents. Such planting strips/buffer areas shall be a minimum of ten feet (10') wide unless a greater width is required within this section of the code.

B. Reserve Strip:

1. Private Reserve Strips: Privately held reserve strips access to streets shall be prohibited.

2. Public Reserve Strips: A one foot (1') reserve may be required to be placed along half streets which are within the subdivision boundaries and shall be deemed in fee simple to the county for future street widening.

C. Landscape Plan Required: A landscape plan is required for all developments requiring a design review, including, but not limited to, all subdivisions. The landscape plan shall be drawn to scale (no smaller than 1 inch equals 30 feet) and shall indicate the following:

1. Boundaries, property lines, and dimensions.

2. Existing trees and vegetation identified by species and size.

3. The location and design of areas to be landscaped.

4. The location and labels for all proposed plants.
5. Plant lists or schedules with the botanical and common name, quantity, and spacing and size of all proposed landscape material at the time of planting.
6. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.
7. Planting and installation details as necessary to ensure conformance with all required standards.

D. Landscape As Percent Of Site:

1. Landscaping shall cover a minimum of ten percent (10%) of the property on all developments. Hardscape plaza areas, such as decorative concrete/paver patios that are integrated into the design of the landscaped area, may be included in the ten percent (10%) landscape coverage requirement.
2. All landscape improvements required in this section shall count toward fulfillment of the above minimum percentages.
3. If only a portion of a property is being developed, and if the county does not require improvements on the entire property, improvements to landscape shall continue a minimum of twenty five feet (25') (on site) beyond the proposed development.

E. Prohibited Materials And Landscaping:

1. No required landscape areas shall include artificial trees, plants, or any carpeting designed as a vegetative substitute.
2. Clear vision triangle shall be observed in regard to all vegetation. All shade trees planted within vision triangles shall be pruned to a minimum seven feet (7') above the adjacent sidewalk and fourteen feet (14') above the adjacent roadway surface. Shrubs and ground covers planted within the vision triangle shall not exceed three feet (3') height at maturity. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent roadways forty feet (40') along each roadway and connecting the two (2) points with a straight line. The sight distance obstruction is also applicable to railroad-highway grade crossings with the vision triangle defined by measuring forty feet (40') along the railroad

property line. In all cases, ITD and Jefferson County Road and Bridge standards shall apply also.

3. When the county determines that a sight obstruction exists, it shall notify the owner of the property upon which the obstruction is located and order that the obstruction be removed within fifteen (15) days. The failure of the owner to remove the obstruction shall constitute a misdemeanor, punishable by a maximum of three hundred dollars (\$300.00) and six (6) months in jail, and every day the owner fails to remove the obstruction shall be a separate and distinct offense.

F. Installation And Minimum Standards:

1. Accepted nursery standards and practices shall be followed in the planting and maintenance of landscaped areas.
2. Soil and slope stabilization must result after landscape installation.
3. Root barriers shall be installed for all new trees planted adjacent to existing or proposed public or private sidewalks and paving.
4. The minimum acceptable size for deciduous trees shall be three inch (3") caliper, balled and burlapped.
5. The minimum acceptable size for evergreen trees shall be six feet to seven feet (6'-7') balled and burlapped.
6. All landscaped areas adjacent to vehicular areas are to be protected with an approved curbing material.

G. Tree Species Mix:

1. When more than ten (10) trees are to be planted to meet the requirements of these guidelines, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. Species shall be planted in proportion to the required mix. See the table below:

<u>Required Number Of Trees</u>	<u>Minimum Number Of Species</u>
11 - 20	2
21 - 30	3
31 - 40	4

H. Completion Time:

1. The zoning administrator may authorize a delay in the completion of planting during the months of November, December, January, February, and March due to weather conditions, if a surety for one hundred fifty percent (150%) of the cost of installation is provided to the county.

I. Irrigation Required: An underground automatic irrigation system is required for all development.

1. All required landscaped areas must be provided with an automatic underground irrigation system.
2. Provide an appropriate backflow prevention device.
3. Provide full one hundred percent (100%) coverage.
4. Use of nonpotable water for use in the irrigation of lawn and plant material is encouraged when determined to be available.
5. Maintain all irrigation systems to ensure proper operation and water conservation.

J. Buffer Areas/Common Lots:

1. Definition: A transition zone or buffer area consists of horizontal space (land) and vertical elements (plants, berms, fences, or walls). The purpose of such buffer space is to physically separate and visually screen adjacent land uses which are not fully compatible due to differing facilities, activities, or different intensities of use, such as townhouses and a convenience store, or a high volume roadway and residential dwellings.

2. Minimum Requirements:

- a. When a commercial or industrial use abuts a residential use, a ten foot (10') wide by six foot (6') high landscaped buffer is required.
- b. When a parking lot abuts a residential activity, a five foot (5') wide by six foot (6') high landscaped buffer is required.

c. To conceal outdoor storage areas, trash receptacles, exposed equipment associated with any commercial or industrial activity, and off street loading when adjacent to or in view from a residential activity or public street right of way, a five foot (5') wide by six foot (6') high landscaped buffer is required.

3. Materials:

a. All buffer areas shall be comprised of, but not limited to, a mix of evergreen and deciduous trees, shrubs, and ground cover in which evergreen plant materials comprise a minimum of sixty percent (60%) of the total plant material used.

b. Height requirements shall be accomplished with plant material with a fence or decorative wall.

c. The required buffer area shall result in an effective barrier within three (3) years and be maintained such that sixty percent (60%) or more of the vertical surface is closed and prevents the passage of vision through it.

d. Chainlink fencing, with slats or otherwise, and cedar fencing is prohibited for screening.

4. Major Roadways: New residential developments/ subdivisions shall be buffered from streets classified as arterials, highways, or freeways, to protect residential communities from noisy, potentially dangerous, high speed roads. The "buffer area" shall be defined as the distance from the outside wall of the lowest story of any single-family attached or detached dwelling and the right of way line of the roadway. The lowest story must be screened from the view of any street classified as a arterial, highway, or freeway. This buffer is required either on individual lots or as an easement, or as part of the common open space owned and maintained by a homeowners' association. Any landscaping proposed to be within the public right of way shall not be included as a part of the buffer area required below. The height for berming/fencing, as noted below, shall be measured from the elevation of the final grade of the adjacent roadway (measured at the centerline) to the top of the proposed berming/fencing. The required buffer area width, plantings, and fencing are as follows:

a. Any road designated as collector, minor or major arterial on the Jefferson County long range highway and street map:

A minimum of thirty five feet (35') wide buffer area (not including right of way) shall be provided with the following plants per one hundred (100) linear feet of right of way: four (4) shade trees, five (5) evergreen trees, and twenty four (24) shrubs. Each required shade tree may be substituted with two (2) flowering/ornamental trees, provided that not more than fifty percent (50%) of the shade trees are substituted.

A minimum five foot (5') high, maximum eight foot (8') high, berm, decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall, or combination thereof shall be provided within the buffer area. The maximum slope for any berm shall be three feet (3') horizontal distance to one foot (1') vertical distance. If a decorative block wall, cultured stone, decorative rock, or similarly designed concrete wall is to be provided in combination with the berm, a four foot (4') wide flat area shall be provided for the placement of the decorative wall. Chainlink, cedar, and similar high maintenance and/or unsightly fencing shall not be permitted.

5. Common Area Landscapes: New residential subdivision common area landscapes shall be comprised of the following:

- a. Lawn, either seed or sod.
- b. A minimum of one deciduous shade tree per one thousand (1,000) square feet.

6. Design Considerations For Residential Developments:

- a. For design flexibility, half of the required shade trees may be substituted on a two to one (2:1) basis with ornamental and evergreen trees.
- b. Buffer areas should include a variety of species, arranged to create varied and attractive views. Fences, walls, and berms may be used. Height changes, offset angles, different materials, and other design techniques are required so as to create variety.

K. Parking Lot Landscaping:

1. Visual Impact: Landscaping shall be provided to minimize the visual impact of off street parking:

Parking should be located to the side and rear of buildings and shall be screened so that it does not dominate the streetscape. Fences, hedges, berms, and landscaping may be used to screen parking areas (chainlink

fencing shall not be permitted). In the design of large parking areas, arrange bays of parking spaces to be separated by landscaping. When parking lots occur on sloping terrain, step the parking lots to follow the terrain rather than allowing the lot surface to extend above natural grade.

2. Parking Lot Landscape Strip: A landscape strip shall be provided when a parking lot is located adjacent to a public right of way. The landscaped strip shall serve to shield views of parked cars to passing motorists and pedestrians, and to establish coordination among architecturally diverse buildings, which creates a pleasing, harmonious appearance along the roadway.

Four (4) options are provided for fulfilling this requirement:

a. Provide a ten foot (10') wide landscaped strip between the right of way and the parking lot, and plant with a minimum of one shade tree and ten (10) shrubs per thirty five (35) linear feet of frontage, excluding driveway openings.

b. Provide an earth berm of thirty inches (30") minimum height (do not exceed 3:1 slope) within a ten foot (10') wide landscaped strip between the right of way and the parking lot, and plant with a minimum of one shade tree and five (5) shrubs per thirty five (35) linear feet of frontage, excluding driveway openings.

c. Provide a six foot (6') landscaped strip with a minimum thirty inch (30") grade drop from the right of way to the parking lot, and plant with a minimum of one shade tree and five (5) shrubs per thirty five (35) linear feet of frontage, excluding driveway openings.

d. Provide a three foot (3') high fence of wood, brick, stone, or decorative block or concrete along with a four foot (4') wide landscaped strip between the right of way and the parking lot, and plant a minimum of one shade tree and five (5) shrubs per thirty five (35) linear feet of frontage, excluding driveway openings.

(1) The board may waive the requirement for a wood, brick, stone, decorative block or concrete fence if the board finds the following:

(A) The applicant must design, document, and obtain county approval representing that the overall planting design, at the time of planting, results in an effective barrier such that the landscape strip shields the view of parked cars from passing pedestrians and motorists; and

(B) Any such proposed design alternative is compatible with the overall site design of the entire project and is compatible with the surrounding area.

3. Parking Lot Perimeter Landscaping: Perimeter landscaping requirements define parking areas and prevent two (2) adjacent lots from becoming one large expanse of paving. This requirement does not hinder the ability to provide vehicular access between lots.

a. Provide a minimum five foot (5') wide perimeter landscaped strip between the property lines and the parking lot, and plant with a minimum of one shade tree and five (5) shrubs per thirty five (35) linear feet of perimeter.

4. Parking Lot Interior Landscaping:

a. Calculated Amount: Interior parking lot landscaping shall be required on any parking lot with ten (10) spaces and above. The required amount of landscaping is based on a sliding scale, as follows:

Total Number Of Spaces	Percent Of Total Area Of A Lot That Must Be An <u>Interior Landscaped Area</u>
10 - 20	5 percent
21 - 50	8 percent
51 +	10 percent

b. Additional Requirements:

(1) No interior planter shall be less than five feet (5') in any dimension.

(2) No parking space shall be more than sixty feet (60') from an interior landscaped area.

(3) Parking islands are to be as evenly spaced as feasible throughout the lot to consistently reduce the visual impact of long rows of parked cars.

(4) Deciduous shade trees and ground covers or low shrubs are recommended as primary plantings in interior landscaped areas. Deciduous shade trees are to be clear branched to a height of six feet (6').

(5) A terminal island for a single row of parking spaces shall be landscaped with at least one tree and shrubs, ground cover, or grass. A terminal island for a double row of parking spaces shall contain not less than two (2) trees and shrubs, ground cover, or grass.

L. Landscaped Commercial Strips:

1. Landscaped strips shall be provided between all building development and public rights of way to lend continuity among different architectural styles, screen unsightly views, establish a pleasing view for motorists, and create a safe and pleasant corridor for pedestrians.

a. The landscaped strip shall be ten feet (10') wide minimum and planted with one shade tree and ten (10) shrubs for every thirty five feet (35') of street frontage. Two (2) ornamental or two (2) evergreen trees may be substituted for one shade tree.

O. Alternative Methods Of Compliance:

1. Project Conditions: It is not the intent of these landscape requirements to inhibit creative solutions to land use problems. Under certain site conditions, a strict interpretation of requirements may be either physically impossible or impractical. Alternative compliance is a procedure that allows certain modifications to existing regulations within this section. Requests for use of alternative landscaping schemes are justified only when one or more of the following conditions apply:

- a. The sites involve space limitations or unusually shaped parcels;
- b. Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical;
- c. Due to a change of use of an existing site, the required bufferyard is larger than can be provided; and
- d. Safety considerations are involved.

2. Request For Alternative Method Of Compliance: The applicant must provide the county with a written request if an alternative method of compliance is proposed. The request shall state which requirement as set forth within this section is to be modified and how the proposed alternative equals or exceeds said requirements.

P. Plan Preparation: Preparing a landscape plan requires special skills. Landscaping involves more than a simple arrangement of plants with irrigation; plants are not haphazardly placed in a way that fills up leftover space. Landscape plans should reflect a theme so that site elements are artfully and technically organized in a way that conveys meaning, coherence, and spatial organization. Landscaping should enhance the physical environment as well as the project's aesthetic character. Therefore, landscape plans to be submitted for approval shall be prepared by a landscape architect, landscape designer, qualified nurseryman, or someone knowledgeable in the field of landscape design.

3-3-8: PUBLIC SITES AND OPEN SPACES:

Public sites and open spaces shall conform to the following standards:

A. Public Uses: Where it is determined that a proposed park, playground, school or other public use as shown on the future growth map, as authorized in section 67-6517, Idaho Code, is located in whole or in part within a proposed subdivision, the county commissioners shall notify the appropriate public agency concerning the land proposed to be acquired. Within thirty (30) days of the date of notice, the public agency may request the governing body to suspend consideration on the subdivision for sixty (60) days, the county commissioners shall resume consideration of the subdivision.

B. Natural Features: Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots and similar irreplaceable assets) shall be preserved in the design of the subdivision.

C. Special Development: In the case of planned unit developments and large scale developments, the county commissioners may require sufficient public and/or private park or open space facilities of acceptable size, location and site characteristics that may be suitable for the proposed development.

D. Open Spaces: The minimum percentage of the gross area that must be set aside for open spaces in new subdivisions shall be as follows:

Lot or acreage ratio for open space	Subdivision lots
One half (1/2) lot	Per every ten subdivision lots in subdivision that the lot sizes are less than one acre
One acre or greater in size	0.04 percent

1. Not to exceed ten acres. The land may consist of parks, playgrounds, pathways, open area and recreation areas. The Planning and Zoning Commission may require the developer to use the alternative procedure in areas that the parks or other are not needed.

2. The Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at

such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase it area.

3. Recreation Sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the subdivision improvement or development agreement and security. A recreation site shall have a total frontage on one (1) or more streets of at least two hundred (200) feet

4. Alternative Procedure: Money in lieu of land. Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved 3.3.8.D, the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with the Governing Body a cash payment in lieu of land reservation. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by the Governing Body. The deposit shall be used by the local government for improvement for a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general neighborhood of subdivision. The Planning Commission shall determine the amount to be deposited, based on the following formula: two hundred dollars (\$200) multiplied by the number of times that the total area of the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation, but not including any lands reserved through density zoning.

SECTION 4

REQUIRED IMPROVEMENTS

3-4-1: IMPROVEMENTS REQUIRED:

Every subdivider shall be required to install the following public and other improvements in accordance with the following conditions and specifications.

3-4-1-1: MONUMENTS:

Monuments shall be set in accordance with section 50-1303, Idaho Code.

3-4-1-2: STREETS AND ALLEYS:

All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the Jefferson County road and bridge.

3-4-1-4: STREET SIGNS:

Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the local standards. A per street sign fee shall be paid by the subdivider.

3-4-1-5: STREETLIGHTS:

All subdividers within the city limits and within the area of city impact shall be required to install, at the subdividers' expense, streetlights in accordance with city specifications and standards at locations designated by the "administrator" (as defined by section 3-1-6 of this title, or his/her representative, hereinafter referred to as "administrator"). After installation and acceptance by the administrator, the city shall have the right to pay the cost of maintenance and power and assume ownership of the streetlights.

3-4-1-6: PEDESTRIAN/BICYCLE PATHWAY AND SIDEWALK REGULATIONS:

A. Intent: The placement of pathways is intended to encourage nonmotorized forms of travel, and to provide safe, convenient and aesthetic alternative travel routes to common destinations such as schools, parks, shopping centers, etc. The following factors will be considered in the placement of any pathway: the utility and need for a given pathway, impacts to existing neighborhoods, compliance with the transportation/pathway network maps within the comprehensive plan, pathway design as it relates to both crime prevention and function, and the responsibilities of ownership, maintenance, and liability.

B. Location:

1. The county shall require the creation and maintenance of pathways, (except in cases where it is shown to be inappropriate), that provides access to adjacent:

- a. Schools;
- b. Public parks;
- c. Adopted pathway elements within the comprehensive plan and pathway plan;
- d. Neighborhoods;
- e. Shopping areas;
- f. Public lands;
- g. Transportation or other community facilities, and vacant parcels, held either publicly or privately which could provide future neighborhood connection(s) to the above noted sites; and
- h. In similar cases where deemed appropriate.

2. In addition, pathways may be required to connect sites other than those noted above:

- a. When there is evidence that a pedestrian/cyclist would otherwise be forced to travel alongside a designated arterial roadway, or other roadway that may be hazardous for nonmotorized forms of travel, in order to reach the desired destination, or
- b. When the pedestrian/cyclist would otherwise have to travel a distance of more than one-half (1/2) mile alongside a local or collector roadway in order to reach the desired destination.

C. Existing Neighborhoods: The placement of a path will be based upon consideration of current residents of a neighborhood as well as future residents. Based upon the following, the county may choose to provide a pathway in existing neighborhoods when:

1. The pathway would provide access to a major pathway element such as the Idaho Falls River greenbelt or Jefferson County Lake.
2. The pathway would provide access to a nearby school or park.
3. A substantial lack of motorized access exists in the given area.
4. No alternative pathway is provided.
5. Connects to adjacent subdivision pathways.

D. Pathway Design: While the county may exercise considerable discretion in determining the design of pathways, the following minimum standards should be followed:

1. The paved portion of the pathway may range from five feet (5') to ten feet (10') in width. Micropathways within subdivisions which are designed for primary use by the residences of the subdivision shall be a minimum six feet (6') wide and shall be located within a sixteen foot (16') wide pedestrian access easement. Regional pathways and pathways located adjacent to major roadways shall be a minimum ten feet (10') wide and shall be located within a twenty foot (20') wide pedestrian access easement.
2. Barriers may be placed at the terminal ends of paths to restrict use by motor vehicles while allowing use by bicycles, wheelchairs and other modes of travel.
3. A five foot (5') wide landscaped area/building and fence setback, as measured from both edges of the paved path, shall be required, and will be owned by either the abutting property owner(s) or a homeowners' association unless accepted by a public entity. The five foot (5') wide landscaped area on either side of the pathway may be decreased to a minimum of two feet (2') wide (as measured from the edge of asphalt to the easement line) when used in conjunction with a meandering pathway, however, the total width of the landscape area shall not be less than ten feet (10') (i.e., 2 feet on one side of the path and 8 feet on the other). For safety purposes, planting material in this area is limited to three feet (3') in height. The landscape, fence and building regulations for this area shall be indicated by a note on the plat.
4. A root barrier shall be placed on both sides of the pathway to prohibit tree roots from damaging the pathway surface. The root barrier shall consist of black injection molded panels with a minimum of 0.085 inch wall thickness in modules

a minimum of twenty four inches (24") long by twenty four inches (24") deep. Each panel shall have no less than four (4) vertical deflecting ribs of a minimum 0.085 inch thickness protruding one-half inch (1/2") at ninety degrees (90°) from the interior of the panel, spaced six inches (6") apart. A minimum of nine (9) antilift tabs, three (3) each between the vertical ribs, shall be integrated into each panel, measuring a minimum of 0.085 inch thickness and protruding three-eighths inch (3/8") from the panel wall. An integrated joining system shall be employed for instant assembly by sliding one panel into the other. An alternative type barrier system of equal root penetrative resistance may be considered on a case by case basis, subject to the approval of the zoning administrator.

5. In order to design for crime prevention the following design standards will be followed:

a. The use of "see through" fencing is preferred, as it provides better visibility from adjacent homes or buildings. If solid fencing is used it may not exceed four feet (4') in height.

b. Adequate lighting may be provided as determined by Jefferson County and may be owned and maintained by the Jefferson County once the path is turned over to the county for maintenance.

c. The use of corners and curves in the design of the paths is discouraged.

7. Consideration shall be given to off street parking where paths connect to popular destination points such as the Idaho Falls River greenbelt, and nearby streets may become congested with vehicles parked by pathway users. Where pathway links connect to major public open space that required vehicular parking, the commission may request the developer to designate land to be purchased and maintained by the appropriate public authority for public parking. Buffering of surrounding residential uses shall be considered in the area for purchase.

E. Responsibility: The following provisions are intended to provide guidance to those entities that are responsible for construction, maintenance and/or liability for a pathway. Installation costs, which may include construction of the paved path, are the responsibility of the developer.

1. Homeowners' Association:

a. Pathway systems within a proposed subdivision providing access to private common space and/or other amenities that are used solely by the residents of a subdivision shall be the responsibility of the homeowners' association.

b. Where the residents of a subdivision will be the primary beneficiaries of a pathway, and, travel from adjoining neighborhoods will be minimal, a homeowners' association may be required to take responsibility for that path.

2. Jefferson County: When location, length and design of a path have been agreed upon by the Jefferson County and the developer, the county may accept

maintenance and liability for the pathways as designated in the comprehensive plan, so long as the pathway is in good condition and repair.

F. Sidewalk Design:

1. Sidewalks, a minimum five feet (5') wide, shall be required on both sides of the street; except, that where the average width of lots, as measured at the street frontage line or at the building setback line, is over one hundred feet (100'), sidewalks on only one side of the street may be allowed.
2. Sidewalks and crosswalks shall be constructed and maintained in accordance with the standards and specifications of the Jefferson County.
3. Sidewalks shall be separated from the edge of the abutting roadway and/or back of curb by a minimum five foot (5') wide landscape strip. The landscape strip shall be completed with sod, automatic irrigation, and planted with three inch (3") minimum caliper shade class trees along all streets within the subdivision. Installation of landscaping shall be in accordance with section 8-2A-7 of this code.
4. Trees shall be placed at the front of each lot generally located on each side lot line. Minor variations to the location of a tree may be considered by the design review board during the review of the subdivision landscape plan.
5. If sidewalk is required on one side of each street only (as provided for in subsection F1 of this section), then the trees on the side of the street with no sidewalk shall be placed within five feet (5') of the edge of roadway.
6. In zoning districts which prohibit densities greater than one dwelling unit per two (2) acres and at the commissions discretion, a four foot (4') wide striped path (with pedestrian designation markings such as diamonds or pedestrian/bicycle symbols) on both edges of all internal roadways may be permitted in lieu of constructing sidewalks. Trees shall be placed within five feet (5') of the edge of roadway.

3-4-1-7: BICYCLE PATHWAYS:

A bicycle pathway shall be provided within all subdivisions as part of the public right of way or separate easement, as may be specified by the county commissioners.

- A. The requirement for the amount of pathway will be twenty five (25) feet for everyone one hundred (100) feet of frontage.
- B. Alternative Procedure: Money in lieu of land. Where, with respect to a particular subdivision, the required pathway as outlined in section 3-4-1-7-A, the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with the Governing Body a cash payment in lieu of required pathway. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by the Governing Body. The deposit shall be used by the local government for improvement for a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for

which payment was made and be located in the general neighborhood of subdivision. The Planning Commission shall determine the amount to be deposited, based on the highest amount of three bids provided by the developers.

3-4-1-8: UNDERGROUND UTILITIES:

Underground utilities are required.

3-4-1-9: WATER SUPPLY AND SEWER SYSTEMS:

A. Construction; Extension: All public water supply or sewer systems (serving 2 or more separate premises or households) shall be constructed in accordance with any adopted local plans and specifications. All new public water supply or sewer systems shall be an extension of an existing public system whenever possible. In the event that the proposed public water supply or sewer system is not an extension of an existing public system, there shall be a showing by the subdivider that the extension is not feasible and not in the best interest of the public.

B. Approval Of Plans: All water and sewer plans shall be submitted to the Idaho department of health and welfare or its authorized agent for approval in accordance with the provisions of section 50-1326, 67-6537 Idaho Code.

C. Irrigation Facilities:

1. For any new subdivision and/or PUD containing four (4) lots or more, and the lots are an acre or larger in size for all residential dwelling units within such subdivision shall be provided with a irrigation system to be served with surface irrigation water unless a waiver, as outlined herein, is approved by the County Commissioners.

The county may adopt supplemental standards and regulations pertaining to the design, construction and maintenance of irrigation systems. Plans and documents reflecting the required standards and regulations shall be submitted with the application for a preliminary plat.

These standards shall supplement all other regulations, and where at variance with other laws, regulations, ordinances or resolutions, the more restrictive requirements shall apply. The council may determine that revisions to the supplemental standards are warranted and make such revisions by act of a resolution.

a. The irrigation system shall be designed by a licensed professional engineer registered in the state of Idaho, and the construction plans for the system shall be reviewed and approved by the county appointed engineer.

b. The irrigation system shall have an approval letter from Idaho Water Resources.

c. The irrigation system shall have an approval letter from the canal company in which it is associated.

2. The requirement for installation of an irrigation system may be waived by the county commissioners when the applicant has established that any of the following situations exist (the sale or transfer of an existing water right shall not be grounds for requesting a waiver pursuant to this provision):
- a. Where a sufficient surface irrigation water right does not exist for the property. The lack of surface irrigation water right shall be documented in writing by the appropriate canal company and the department of water resources and shall be submitted with the subdivision preliminary plat. In this case a waiver shall only be granted for that portion of the subdivision that cannot be served.
 - b. Where an existing surface water right cannot be delivered to the property by a canal company due to current delivery capacity or scheduling. In these situations the county commissioners may still require the installation of the irrigation system, provided water rights can be made available to the property and delivery system modifications can be made so irrigation water can be supplied within two (2) years.
 - c. That due to the specific circumstances surrounding a new subdivision, the cost of obtaining water rights, reestablishing water rights or developing the system would impose an undue economic hardship on the developer. For purposes of this section an undue economic hardship shall consist of a showing that the cost per lot to develop the irrigation system would be twenty five percent (25%) higher than the cost per lot for providing an irrigation system to subdivisions of similar size and density constructed in the county within the previous two (2) years; or the cost per lot of the irrigation system would exceed five percent (5%) of the expected per lot market value of the subdivision.
The developer shall bear the burden of providing documentation, acceptable to the county planning and zoning administrator and county commissioners, demonstrating and supporting the estimated costs of construction of the irrigation system, and the cost per lot for irrigation systems in those subdivisions built in the last two (2) years as noted above, and the expected market value of the subdivision lots. For phased developments, costs will be analyzed over all phases of the development rather than the first phase only.
3. Should installation of an irrigation system be waived by the county planning and zoning, as outlined herein, compliance to Idaho Code 31-3805 is still required.
4. Requests for waivers shall be submitted to the county with the preliminary plat application and shall be accompanied by an irrigation report, stating the location and availability of surface irrigation water and documenting the basis for the waiver request. If applicable, the irrigation report shall be accompanied by a letter from the canal company stating that water rights and/or a delivery system are not available to the property.

3-4-1-10: STORM DRAINAGE, FLOOD CONTROLS:

A. Adequate Storm Drainage System: An adequate storm drainage system to accommodate storm water runoff from the public rights of way shall be required in all subdivisions.

B. Interceptor Ditches: Interceptor ditches shall be established above all cut/fill slopes, and the intercepted water conveyed to a stable channel or natural drainageway with adequate capacity.

C. Pavement Design: Pavement design shall be such that water on roadways is prevented from flowing off the roadway.

D. Natural Drainageway Treatment: Natural drainageways shall be riprapped or otherwise stabilized below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.

E. Runoff From Impervious Cover: Runoff from areas of concentrated impervious cover (for example, roofs, driveways and roads) shall be collected and transported to a natural drainageway with sufficient capacity to accept the discharge without undue erosion.

F. Deposit Of Waste Material Prohibited: Waste material from construction, including soil and other solid materials, shall not be deposited within the 100-year floodplain.

G. Drainageways Or Hydraulic Structures In Major Waterways: Drainageways or hydraulic structures in major waterways (defined as draining a basin area of 10 acres or more) shall be designed for the 100-year flood or to accommodate the runoff front, whichever is greater. In minor waterways (defined as draining a basin area of less than 10 acres), such structures shall be designed for the 50-year flood

H. Storm Drainage Retention Facilities: On site retention or partial on site retention of storm drainage from new developments is required in any case where, due to development activity, such drainage would be increased either in peak flow rate or in total quantity from that previously discharged from the land or property being developed. Complete retention is required in all cases except those where: 1) runoff flows directly, without crossing intervening property, into an existing drain ditch or other drainage facility that is operated and maintained by a drainage receiver, and 2) such drainage receiver agrees, as evidenced by valid and binding public document, to receive a certain definite quantity of storm drainage from the development. Retention on site of any drainage not so accepted by a drainage receiver or of any drainage in excess of the quantity accepted by a drainage receiver is a duty of the current property owner at any time.

Retention or partial retention facilities shall be provided as an essential part of such development. Design and construction of such retention facilities shall conform to standards, entitled "Design Standards For Storm Drainage Retention Facilities", adopted by resolution of the county commissioners, and which standards may, from time to time, be amended by subsequent resolution of the council. All facilities shall be maintained on an on going basis in order to perform as designed. Should any of the

provisions of the supplemental standards conflict with the standards set forth herein, the higher standard shall apply.

I. Sediment Catchment Ponds: Sediment catchment ponds shall be constructed and maintained downstream from each development, unless sediment retention facilities are otherwise provided. Any facility used shall provide for the removal of surface debris and contaminants, as well as sediment retention.

J. Completion And Operation Deadline: The overall drainage system shall be completed and made operational at the earliest possible time during construction.

K. Alterations Of Major Drainageways: Alterations of major drainageways shall be prohibited except for approved road crossings and drainage structures.

L. Natural Or Improved Open Channel Drainageways: Natural or improved open channel drainageways shall be preserved or provided for in major waterways; except, that at road crossings, conduits may be permitted. Minor waterways shall be permitted to be enclosed in conduits.

M. Reservation Of Right To Require: The county reserves the right to require installation of hydrologic measuring devices in drainage ways within any development at public expense.

N. Drainage System Plans: Drainage system plans shall show how lots will be graded so that all runoff runs either over the curb, or to a drainage easement, and that no runoff shall cross any lot line onto another lot except within a drainage easement.

3-4-1-11: FIRE HYDRANTS AND WATER MAINS:

Adequate fire protection shall be required in accordance with the appropriate fire district standards.

3-4-1-12: LANDSCAPE BUFFER AREAS:

Landscape buffer areas, in accordance with this section 3-3-7 of this code shall be required for the protection of residential properties from streets classified as arterials, highways/freeways, waterways, railroad rights of way or other features. Subdivision plats shall show the location of all buffer areas.

3-4-2: CONSTRUCTION OF IMPROVEMENTS:

Required improvements.

3-4-2-1: CONSTRUCTION PLANS:

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer, a complete set of construction plans, including profiles, cross section, specifications and other supporting data, for all required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval

by the responsible public agencies and all construction plans shall be prepared in accordance with the public agencies' standards or specifications.

3-4-2-2: GUARANTEE OF IMPROVEMENTS:

In lieu of the actual installation of the public improvements required by this title prior to the planning and zoning signing the final plat, the county commissioners may permit the subdivider to provide a surety/financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement:

A. Cash Deposit, Certified Check, Certificate Of Deposit, Or Irrevocable Bank Letter Of Credit: A cash deposit, certified check, certificate of deposit, or an irrevocable bank letter of credit (from a financial institution approved by the Planning and Zoning Administrator), in the amount equal to one hundred fifty percent (150%) of the estimated construction costs of public improvements shall be provided by the owner/developer and held by the county until said construction is complete. Construction cost estimates shall be reviewed and approved by the county zoning administrator prior to county acceptance of said surety. The surety initiation and extension fees shall be established by resolution of the County Commissioners.

In the case of cash deposits or certified checks, an agreement between the County Commissioners and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

B. Completion Time: All public improvements shall be completed within one year from the date of acceptance of the surety/financial guarantee of performance by the county. The zoning administrator may authorize a delay in the completion of public improvements during the months of November, December, January, February, and March due to weather conditions, if at a minimum, the surety is extended.

Notwithstanding the forgoing, no final occupancy permit will be issued for any residence or business, whichever is applicable, until the walkways, automatic irrigation, and street trees required in section 3-4-1-6 of this section have been installed along the frontage of the lot that said residence/business is located upon.

3-4-2-3: INSPECTIONS:

Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the county commissioners shall be made to provide for checking or inspecting the construction and its conformity to the submitted plans.

3-4-2-4: FAILURE TO COMPLETE PUBLIC IMPROVEMENT CONSTRUCTION:

In the event the subdivider shall, in any case, fail to complete such work within the period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the county commissioners to proceed to have such work completed. In order to accomplish this, the county commissioners shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the county commissioners and the subdivider.

SECTION 5

SPECIAL DEVELOPMENT SUBDIVISIONS

3-5-1: PURPOSE AND SUMMARY OF PROVISIONS:

The purpose of this section is to identify various types of developments that normally pose special concerns to the elected officials when reviewing and acting upon subdivision requests. This section outlines the plan submittal requirements and design standards that shall be taken into consideration when acting on special developments.

3-5-2: SUPPLEMENTARY PROVISIONS:

The provisions of this section are in addition to the plan requirements, design standards and improvement standards that are required by sections 2, 3, and 4 of this title.

3-5-3: HILLSIDE SUBDIVISIONS:

3-5-3-1: PRESERVATION OF NATURAL FEATURES:

In order to preserve, retain, enhance and promote the existing and future appearance, natural topographic features, qualities and resources of hillsides, special consideration shall be given to the following:

- A. Skyline and ridge tops;
- B. Rolling grassy land forms, including knolls, ridges and meadows;
- C. Tree and shrub masses, grass, wild flowers and topsoil;
- D. Rock outcroppings;
- E. Stream beds, draws and drainage swales, especially where tree and plant formations occur; and
- F. Characteristic vistas and scenic panoramas.

3-5-3-2: DEVELOPMENT EVALUATION:

- A. All development proposals shall take into account and shall be judged by the way in which land use planning, soil mechanics, engineering geology, hydrology, civil engineering, environmental and civil design, architectural and landscape design are applied in hillside areas, including, but not limited to:

1. Planning on development to fit the topography, soils, geology, hydrology and other conditions existing on the proposed site;
 2. Orientation of development on the site so that grading and other site preparation is kept to an absolute minimum;
 3. Shaping of essential grading to blend with natural land forms and to minimize the necessity of padding and/or terracing of building sites;
 4. Division of large tracts into smaller workable units on which construction can be completed within one construction season so that large areas are not left bare and exposed during the winter-spring runoff period;
 5. Completion of paving as rapidly as possible after grading;
 6. Allocation of areas not well suited for development because of soil, geology or hydrology limitations for open space and recreation uses;
 7. Minimizing and disruption of existing plant and animal life; and
 8. Consideration of the view from and of the hills.
- B. Areas having soil, geology or hydrology hazards shall not be developed unless it is shown that:
1. Their limitations can be overcome;
 2. That hazard to life or property will not exist;
 3. That the safety, use or stability of a public way or drainage channel is not jeopardized; and
 4. That the natural environment is not subjected to undue impact.

3-5-3-3: ENGINEERING PLANS:

The developer shall retain a professional engineer(s) to obtain the following information:

A. Soils Report: For any proposed hillside development a soils engineering report shall be submitted with the preliminary plat. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures and opinions and recommendations covering the adequacy of sites to be developed.

B. Geology Report: For any proposed hillside development a geology report shall be submitted with the preliminary plat. This report shall include an adequate description of site geology and an evaluation of the relationship between the proposed development and the underlying geology and recommendations for remedial remedies.

The investigation and subsequent report shall be completed by a professional geologist registered in the state of Idaho.

C. Hydrology Report: For any proposed hillside development a hydrology report shall be submitted with the preliminary plat. This report shall include an adequate description of the hydrology, conclusions and recommendations

regarding the effect of hydrologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed.

3-5-3-4: GRADING PLANS:

A. Preliminary Grading Plan: A preliminary grading plan shall be submitted with each hillside preliminary plat proposal and shall include the following information:

1. Approximate limiting dimensions, evaluations or finish contours to be achieved by the grading, including all cut and fill slopes, proposed drainage channels and related construction;
2. Preliminary plans and approximate locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed; and
3. A description of methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.

B. Final Grading Plan: A final grading plan shall be submitted with each final plat and shall include the following information:

1. Limiting dimensions, evaluations or finish contours to be achieved by the grading including all proposed cut and fill slopes and proposed drainage channels and related construction;
2. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed; and
3. A schedule showing when each stage of the project will be completed, including the total area of soil surface which is to be disturbed during each stage together with estimated starting and completion dates. In no event shall the existing natural vegetative ground cover be destroyed, removed or disturbed more than fifteen (15) days prior to grading.

3-5-3-5: DEVELOPMENT STANDARDS:

A. Soils:

1. Fill areas shall be prepared by removing organic material such as vegetation and rubbish, and any other material which is determined by the soils engineer to be detrimental to proper compaction or otherwise not conducive to stability. No rock or similar irreducible material with a maximum dimension greater than eight inches (8") shall be used as fill material in fills that are intended to provide structural strength.
2. Fills shall be compacted to at least ninety five percent (95%) of maximum density, as determined by AASHOT99 and ASTM D698.
3. Cut slopes shall be no steeper than two (2) horizontal to one vertical. Subsurface drainage shall be provided as necessary for stability.

4. Fill slopes shall be no steeper than two (2) horizontal to one vertical and shall not be located on natural slopes two to one (2:1) or steeper, or where fill slopes toes out within twelve feet (12') horizontally of the top of an existing or planned cut slope.

5. Tops and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3') plus one-fifth (1/5) of the height of the cut or fill but need not exceed a horizontal distance of ten feet (10'). Tops and toes of cut and fill slopes shall be set back from structures a distance of six feet (6') plus one-fifth (1/5) the height of the cut or fill, but need not exceed ten feet (10').

6. The maximum horizontal distance of disturbed soil surfaces shall not exceed seventy five feet (75').

B. Roadways:

1. Road alignments should follow natural terrain and no unnecessary cuts or fills shall be allowed in order to create additional lots or building sites.

2. One-way streets shall be permitted and encouraged where appropriate for the terrain and where public safety would not be jeopardized. Maximum width shall be seventeen feet (17') between the backs and curbs.

3. The width of the graded section shall extend three feet (3') beyond the curb back or edge of pavement on both the cut and fill sides of the roadway. If sidewalk is to be installed parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus one foot (1') beyond the curb back.

4. Standard six inch (6") vertical curb and gutter shall be installed along both sides of all paved roadways.

C. Driveways And Parkings: Combinations of collective private driveways, cluster parking areas and on street parallel parking bays shall be used to attempt to optimize the objectives of minimum soil disturbance, minimum impervious cover, excellence of design and aesthetic sensitivity.

3-5-3-6: VEGETATION AND REVEGETATION:

A. The developer shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation, the vegetation to be removed and the method of disposal, the vegetation to be planted and slope stabilization measures to be installed. The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality and fish and wildlife.

B. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas as each stage of grading is completed. Areas not contained within lot boundaries shall be protected with perennial vegetal cover after all construction is completed. Efforts shall be made to plant those species that tend to recover from fire damage and do not contribute to a rapid rate of fire spread.

C. The developer shall be fully responsible for any destruction of native vegetation proposed for retention. He shall carry the responsibility both for his own employees and for all subcontractors from the first day of construction until the notice of completion is filed. The developer shall be responsible for replacing such destroyed vegetation.

3-5-3-8: MAINTENANCE REQUIRED:

The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved or a building permit granted under the provisions of this title shall continuously maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures or means, and other protective devices, plantings and ground cover installed or completed.

3-5-3-9: UNDERGROUND UTILITIES:

All new service utilities shall be placed underground. When installing utilities under existing road ways it is required that the developer in conjunction with the contractor to apply for a road work permit to cut into the road or bore underneath the road. It will be required to provide a deposit to be held by the county until the road and bridge supervisor has approved the repairs to the roadways.

3-5-4: PLANNED UNIT AND CONDOMINIUM SUBDIVISIONS:

3-5-4-0 - PURPOSE

The purpose of Planned Unit Development regulations is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Planned Unit Development are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls. An intrinsic, and often neglected, premise upon which the approval of a Planned Unit Development (PUD) must be conditioned, is that while greater density or more lenient siting requirements may be granted, the Planned Unit Development should contain features not normally required of traditional developments. Inherent to realizing these objectives, is continuous and in-depth scrutiny of the proposed Planned Unit Development is being adhered to. Hence, to enable thorough analysis of a Planned Unit Development, more information is demanded about the proposal than would be required if development were being pursued under conventional zoning requirements.

3-5-4-1 - OBJECTIVES

Through proper planning and design, each Planned Unit Development should include features which further, and are in compliance with, the following objectives:

1. - To allow for the design of developments that are architecturally and environmentally innovative, and that achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls.
2. - To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affective flooding, soil, drainage, and other natural ecologic conditions.
3. - To combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.
4. - To provide for abundant, accessible, and property located public open and recreation space, private open and recreation space, schools, and other public and private facilities.
5. - To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.
6. - To enable land developments to be completely compatible and congruous with adjacent and nearby land developments.
7. - To ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction.
8. - To allow unique and unusual land uses to be planned for and located in a manner that ensures harmony with the surrounding community.
9. - To create a method for the permanent preservation of historic buildings and/or landmarks.

3-4-5-2 - STANDARDS FOR PLANNED UNIT DEVELOPMENTS

The Planned Unit Development must meet the following standards:

1. - COMPREHENSIVE PLAN

A Planned Unit Development must conform with the objectives of the Comprehensive Plan of Jefferson County.

2. - SITE AND OWNERSHIP

The site of the Planned Unit Development must be under single ownership and/or unified control. If the site is over thirty (30) acres, the "conceptual plan" procedure, as set forth in Section 9.3.2 may be followed.

3. - COMPATIBILITY

The uses permitted in a Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties.

In addition, the Planned Unit Development shall not endanger the public health, welfare, or safety, nor shall it substantially diminish or impair property values in the neighborhood in which it is to be located.

4. - NEED

The Planned Unit Development must be of a character and contain such uses that are needed in the area of the proposed project.

5. - DENSITY

The net density of a Planned Unit Development (either in dwelling units - for residential uses, or in floor area - for all other uses) shall generally correspond to the net density regulations imposed by the underlying zoning district. The net density of the Planned unit Development is not necessarily required to precisely correspond with the normal net density of the underlying zoning district, but instead should reflect that district's character through complementary building types and architectural design. It is required that a zoning amendment request accompany the Planned Unit Development application if the net density of the proposed development substantially exceeds the net density permitted in the underlying zoning district.

6. - SPACE BETWEEN BUILDINGS

The minimum horizontal distance between the buildings shall be:

- a. - Fifteen (15) feet between clustered or "zero lot line" single-family detached buildings.
- b. - Twenty (20) feet between single-family detached dwellings.
- c. - Thirty (30) feet between buildings, other than single family-detached dwellings, of one (1), or two and one-half (2 1/2) stories in elevation.
- d. - Equal to the height of the taller building in the case of free-standing buildings greater than two and one-half (2 1/2) stories in elevation.

7. - YARDS

The required yards along the periphery of the Planned Unit Development shall be at least equal in width or depth to that of the adjacent zoning district.

a. - Buildings of more than twenty-four (24) feet in height shall provide a setback from any property line of not less than equal to the height of such buildings.

In circumstances where the County Commissioners, acting upon the recommendation of the Planning Commission, in reviewing a particular Preliminary Planned Unit Development Plat, may upon ample evidence of exceptional design or construction features, which are deemed both architecturally and environmentally superior, include the provision of an inordinate amount of amenities, are in strict compliance with County building, fire health, and other application codes, and/or contribute to the increased health, safety, and welfare of existing and future residents of the County, may lower the required yards along the periphery of the Planned Unit Development from the standard required in the adjacent zoning district to the extent deemed appropriate in direct relationship to the exceptional architecturally and environmental superior design and construction features.

8. - PARKING REQUIREMENTS

Adequate parking shall be provided and shall be in general conformance with the parking regulations provided for in other sections of this Ordinance unless changes are warranted by the particular characteristics of the proposed Planned Unit Development.

Additional parking space for guests, customers, the handicapped, recreational vehicles, and other common storage and/or parking uses in Planned Unit Developments, shall be required by the County Commissioners, acting upon the recommendation of the Planning Commission, if warranted by the particular characteristics of the proposed Planned Unit Development.

9. - TRAFFIC

Adequate provision shall be made to provide ingress and egress so designed as to minimize both internal and external traffic hazards and congestion.

10. - DESIGN STANDARDS

The provisions of the Zoning Regulations, as amended, shall be adhered to, unless a waiver is granted by the County Commissioners.

11. - PERFORMANCE STANDARDS

The performance standards for the underlying zoning district of the Planned Unit Development shall, in all instances, be complied with.

12. - DEPARTURE FROM STANDARDS

The Planned Unit Development may depart from strict conformance with the required density, dimension, area, height, bulk, use and specific content regulations of this Ordinance to the extent specified in the preliminary plat and documents authorizing the Planned Unit Development so long as the Planned Unit Development provides tangible benefits to the neighborhood or community in which it is located. These benefits shall be in the form of provisions of exceptional amenities, design excellence, etc. The waiver of any requirement shall be the direct cause of accrual of positive benefits to the residents of the development as well as to the general community (e.g., waiver of yard requirements might result in more usable open space). Departure from any requirement specified in this Ordinance or other County ordinances and regulations is a privilege, and shall be granted only upon recommendation of the Planning Commission and approval by the County Commissioners.

3-5-4-3 - PROCEDURE FOR PLANNED UNIT DEVELOPMENTS

The unique character of Planned Unit Development requires their administrative processing as a special use in this Ordinance. Planned Unit Developments may be processed as special uses in each district of this Ordinance. Planned Unit Developments are more complex and of a significantly difference character than other special uses, therefore requiring the establishment herein of specific procedures different than those used to process other special uses. The procedure, standards, objectives and purpose set forth in this Article, when in conflict with other provisions of this Ordinance, as they may pertain to Planned Unit Development, and only Planned Unit Developments, shall be superseding.

A four-step procedure is prescribed for Planned Unit Developments of which the

second step is optional.

1. - STEP 1 - PRE-APPLICATION PROCEDURE

a. - Intent - The intent of the Pre-Application process is to obtain a general awareness of the County's adopted zoning, the compatibility of the proposed Planned Unit Development with existing and anticipated land uses in the vicinity, and a familiarity with the County's Planned Unit Development procedures. This procedure allows the developer to determine the suitability of a proposed Planned Unit Development procedures. This procedure allows the developer concerning the approval or construction of the proposed Planned Unit Development.

b. - Pre-Application Conference - Prior to the filing of an application for approval of a Planned Unit Development, the prospective applicant may request of the Plan Commission one (1) informal meeting to discuss the development of the proposed Planned Unit Development site in conjunction with the County's adopted zoning and its compatibility with existing and anticipated land uses in the vicinity. Said meeting may be a part of a regularly scheduled meeting, shall be open to the public, and included on their agenda in advance of the meeting.

The Pre-Application conference is not mandatory nor does it require formal application fee, or filing of a Planned Unit Development plat. However, the expenses incurred by the County as a result of any additional conferences in excess of the one (1) entitled conference with the Plan Commission to discuss the development of the proposed Planned Unit Development site, within a period of one (1) year from the date of the initial Plan Commission conference on the said proposed Planned Unit Development site, shall be paid for by the prospective applicant.

c. - Pre-Application Document Review - Prior to the filing of an application for approval of a Planned Unit Development, either before, after, or in lieu of the Pre-Application Conference, all prospective applicants shall review copies of the Gurnee Land Use Plan, the Zoning Map, and the Planned Unit Development Sections of this Ordinance, which are available for inspection at the Planning and Zoning Office. The Plan shall be evaluated by the petitioner in order to determine the consistency of the proposal with the County's adopted planning. The Zoning Map shall be reviewed to ascertain whether or not the proposal is likely to be compatible with existing and anticipated land uses in the vicinity of the proposal. The Planned Unit Development sections of this Ordinance shall be reviewed to insure familiarity with the County's Planned Unit Development procedures.

The applicant is required to sign a statement to the effect that the applicant has reviewed copies of the Jefferson County Land Use Plan, the Zoning Map, and the Planned Unit Development Sections of this Ordinance at the time the Planned Unit Development application is submitted for approval.

2. - STEP 2 - CONCEPTUAL PLAN PROCEDURE (OPTIONAL)

a. - Intent - The intent of the Conceptual Plan Submission is to obtain approval of the County for the development of a parcel of land in accord with the plans, programs, and schedule submitted as this part of the Planned Unit Development application. If this optional procedure is elected, the petitioner is explicitly committing the subject property to a specific arrangement of land uses at a specific range of densities. In return the petitioner is receiving - through rezoning for a Planned Unit Development - a community commitment that, following conceptual plan approval, the petitioner can proceed to subsequent steps of the Planned Unit Development procedure with reasonable assurance that if the agreed to concept is carried forth, preliminary and final plat approval will be granted. This procedure allows for approval of an overall concept without the necessity of prejudging long-range markets.

Only proposals of at least thirty (30) acres may pursue this optional step. If this procedure is not selected, or if a property subject to Planned Unit Development consideration contains less than thirty (30) acres, the second step in the procedure is the "Preliminary Plat" stage.

b. - Procedure - A request for approval of a Conceptual Plan, as a step in the Planned Unit Development procedure, shall be submitted to the Office of the Zoning Administrator and subsequently shall be referred to the Plan Commission for public hearing, review, and recommendation. The required procedure for review of the Plan shall be:

(1) - Submission of the items required of a Conceptual Plan petitioner as identified under the "Submission Requirements" sections of this Article. Said submission requirements fall into two general categories:

(a) - Submission of data required at the time application is made for Conceptual Plan Approval;

(b) - Submission of data required at the time of the first public hearing pertaining to the specific Conceptual Plan.

(2) - The Plan Commission shall hold a public hearing on the application for a Planned Unit Development Conceptual Plan in accord with the procedures established for special uses in this Ordinance.

(3) - Following the public hearing and review of the Conceptual Plan submission, the Plan Commission shall within thirty (30) days, unless an extension is requested by the petitioner, recommend approval, modification, or disapproval of the Conceptual Plan, and the reasons therefor, or indicate why a report and recommendation cannot be rendered to the County Commissioners.

In its communication to the County Commissioners, the Planning Commission shall set forth "findings of fact," in accordance with the "findings of fact" section

of this Article, on which the recommendation is based and describing how the Conceptual Plan meets the standards and objectives stated in this Article.

(4) - The County Commissioners, after receipt of the Conceptual Plan from the Planning Commission, shall approve, modify, or disapprove the Plan within sixty (60) days, unless an extension is requested by the petitioner. In the case of approval, or approval with modification, the County Commissioners shall pass a resolution approving the Conceptual Plan. Said ordinance shall provide for a change in the official County Zoning Map indicating that the subject site is approved for a Planned Unit Development for further allowing for any approved zoning amendments, variations, and/or special uses. However, once these map changes are made, the petitioner must submit subsequent Preliminary Plat data in accordance with the schedule set forth in the "Revocation and Extension" section of this Article. If same is not done, all map changes authorized by the County Commissioners shall revert back to the original zoning designation affixed to the subject property in accordance with the same "Revocation and Extension" section of this Article. The County Commissioners may require such special conditions as it may deem necessary to insure conformance with the objectives and standards established in this Article.

It is emphasized that no building or construction whatsoever may take place within the proposed Planned Unit Development and no permits may be issued, until the Final Plat and accompanying data has been submitted, approved, and recorded. Approval of the Conceptual Plan shall constitute an interim zoning acceptance of the land use and density concepts specified therein, and shall indicate the general acceptance of the County Commissioners to approve a "Preliminary Plat" that carries out, refines, and implements the concepts expressed in the Conceptual Plan. The Conceptual Plan and a Preliminary Plat for the first stage or stages of a Planned Unit Development may be filed and approved simultaneously.

3. - STEP 3 - PRELIMINARY PLAT PROCEDURE

a. - Intent - It is the intent of the Preliminary Plat submission to obtain tentative approval from the County for the plans, design, and program that the petitioner contemplates compliance with. If the Preliminary Plat is approved, the petitioner can proceed to the Final Plat stage with reasonable assurance that the Final Plat will be approved if substantially in compliance with the Preliminary Plat. If the Preliminary Plat is submitted without the benefit of first completing the optional Conceptual Plat stage of the Planned Unit Development procedure, a relatively detailed submission is required to assure the County that the proposed Planned Unit Development substantially conforms to the objectives and standards expressed in this Article. If a Conceptual Plat has already been submitted and approved, the submission of the

Preliminary Plat either in stages or in total is expected to refine the originally approved concept.

Any parcel of property may be eligible for consideration as a Planned Unit Development using the Preliminary Plat procedure. However, each petitioner for Preliminary Plat approval should be aware that the objectives and standards for Planned Unit Developments, as expressed in this Article, must be clearly integrated into the Planned Unit Development submission. Failure to do so will result in disapproval.

b. - Procedure - A request for approval of a Preliminary Plat, as a step in the Planned Unit Development procedure, shall be submitted to the Office of the Zoning Administrator, which shall refer same to the Plan Commission for public hearing, review and recommendation. The required procedure for review of the Preliminary Plat shall be:

(1) - Submission of the items required of a Preliminary Plat petitioner as identified under the "Submission Requirements" Section of this Article. Said submission requirements fall into two general categories:

(a) - Submission of data required at the time application is made for Preliminary Plat approval;
(b) - Submission of data required at the time of the first public hearing pertaining to the specific Preliminary plat.

(2) - The Plan Commission shall hold a public hearing on the application for a Planned Unit Development Preliminary Plat in accord with the procedures established for special uses in this Ordinance. If a public hearing was held on a Conceptual Plan for the subject Planned Unit Development, a second public hearing is required with the submission of the Preliminary Plat. The sophisticated submission required at the time of the Preliminary Plat hearing is significantly different from that required at the Conceptual Plan stage. In the first stage concepts are being reviewed, at the Preliminary Plat stage precise plans and designs are the subject of scrutiny. The public has the right to witness and voice opinions at both stages.

(3) - Following the public hearing and review of the Preliminary Plat submission, the Plan Commission shall within thirty (30)days, unless an extension is requested by the petitioner, recommend approval, modification, or disapproval of the Preliminary Plat, and the reasons therefore, or indicate why a report and recommendation cannot be rendered to the County Commissioners.

In its communication to the County Commissioners, the Plan Commission shall set forth "findings of fact," in accordance with the "Findings of Fact" section of this Article, on which the recommendation is based and describing how the Preliminary Plat meets the standards and objectives stated in this Article.

(4) - The County Commissioners, after receipt of the Preliminary Plat from the Plan Commission, shall approve, modify, or disapprove the Plat within sixty (60) days, unless an extension is requested by the petitioner. In the case of approval, or approval with modification, the County Commissioners shall authorize the Plat Officer to sign the Preliminary Plat. If the Preliminary Plat is the first submission made as part of the Planned Unit Development procedure, the County Commissioners shall pass an ordinance for a change in the Official County Zoning Map indicating that the subject

site is approved for a Planned Unit Development and further allowing for any approved zoning amendments, variations, and/or special uses. The petitioner must submit subsequent Final Plat data in accordance with the schedule set forth in the "Revocation and Extension" Section of this Article. If same is not done, all map changes authorized by the County Commissioners shall revert back to the original zoning designation affixed to the subject property in accordance with the same "Revocation and Extension" Section of this Article. The County Commissioners may required such special conditions as it may deem necessary to ensure conformance with the objectives and standards established in this Article.

It is emphasized that no building or construction, excluding public improvements, may take place within the proposed Planned Unit Development, and no permits may be issued, until the Final Plat and accompanying data has been submitted, approved, and recorded. Several projects or stages may compose the overall Planned Unit Development. If this is the case, the Final Plat may be submitted and approved in several states in accordance with the agreed to development schedule processed with Preliminary Plat data. Permits shall be issued pursuant to the processing, approval, and recording of each separate stage of the overall Final Plat. Approval of a Preliminary Planned Unit Development Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval to the layout submitted on the Preliminary Plat and as a guide to the preparation of the Final Plat, which will be submitted for approval of the County and subsequent recording, upon the fulfillment of the requirements of these regulations and conditions of the preliminary approval, if any. The Final Plat shall be approved if it conforms with the Preliminary Plat. The Preliminary and Final Plats may be filed and approved simultaneously.

4. - STEP 4 - FINAL PLAT PROCEDURE

a. - Intent - The purpose of the Final Plat is to designate with particularity the land subdivided into conventional lots as wells as the division of other lands, not so subdivided, into common open space and building sites. The Final Plat is intended as a document to be recorded. The Final Plat shows the exact location of facilities, while the Preliminary Plat shows the general location of the same facilities.

b. - Procedure - The Final Plat shall be submitted as a Planned Unit Development Plat and shall conform substantially to the Preliminary Plat as approved and, if desired by the petitioner, may be submitted in stages with each stage reflecting the approved Preliminary Plat which is proposed to be recorded and developed; provided, however, that each stage submitted conforms to all requirements of these regulations. The required procedure for approval of a Final Plat shall be:

(1) - Submission of the items required of a Final Plat petitioner as identified under the "Submission Requirements" Section of this Article. Said submission shall be made to the Office of the Zoning Administrator or Plat Officer, as may be determined, for certification that the Final Plat is in conformance with Planned Unit Development

Regulations and in agreement with the approved Preliminary Plat.

(2) - The Plan Commission shall review the Final Plat data within thirty (30) days after submission. A public hearing is not required. After review of the Final Plat, the Plan Commission shall, within thirty (30) days, unless an extension is requested by the petitioner, recommend approval or disapproval, and the reasons therefor to the County Commissioners.

(3) - The County Commissioners, after receipt of the Final Plat from the Plan Commission, shall approve, or disapprove the Final Plat within a period of sixty (60) days, unless an extension is requested by the petitioner. In the case of approval, the County Commissioners shall sign the Final Plat. Permits are issued only after the Final Planned Unit Development Plat and any required supporting data have been recorded with the County Recorder of Deeds, and shall be issued in full conformance with the Planned Unit Development. The construction authorized by the Building Permit shall be in full compliance with the Final Planned Unit Development Plat, as recorded.

3-5-4-4 - SUBMISSION REQUIREMENTS

1. - CONCEPTUAL PLAN STAGE (OPTIONAL)

a. - At the time application is made for Conceptual Plan approval, the following items must be submitted to the Office of the Zoning Administrator:

(1) - Application - A written application for a Planned Unit Development on forms supplied by the Office of the Zoning Administrator.

(2) - Fee - A fee, established by the County Commissioners, that is suitable to cover costs incurred by the County for review of the specific proposal. If special planning, engineering, architectural or other consultants must be retained by the County for review of the proposed Planned Unit Development, the petitioner shall be so notified, and all costs for said consultants expended by the County - not covered by the filing fee - shall be reimbursed by the petitioner.

(3) - Notification List - A list of the names and addresses of owners of all property that is situated within three hundred (300) feet of the property lines of the subject site. This list shall be current as of the date of submission. People appearing on said list will be sent notice of the public hearing in compliance with statutory requirements. In addition, the responsible fire protection district (if any), affected school districts, affected park districts, and affected sanitary and/or drainage district shall appear on a separate list of notification. The County Road and Bridge Department will also be notified. Additional parties, specified by the petitioner, may appear on the notification list. Interested community groups, such as homeowner's associations, may request notification for projects within adjoining areas. Failure to provide an accurate list of names and addresses of owners of all property that is situated within five hundred (500) feet of the property lines of the subject site shall be cause for immediate dismissal of the Planned Unit Development application as well as forfeiture of all fees and expenses incurred.

(4) - Ownership - A state of present and proposed ownership of all land within the development.

(5) - Legal Description - A legal description of the subject site.

(6) - Taxes - Proof shall be furnished to indicate that there are no delinquent taxes constituting a lien on the whole or on any part of the property. Such proof may take the form of paid tax bills to the date of submission of the Planned Unit Development application, a statement from the title insurance company indicating that no liens affect the subject site, or a letter from the County Assessor or Treasurer affirming that there are no delinquent taxes of the property.

b. - At the time of the public hearing on the Conceptual Plan, twenty (20) copies of all subsequent listed information shall be submitted (with the exception of non-reproducible exhibits). Failure to submit any of the required information, without a specific written waiver from the Plan Commission, shall constitute grounds for dismissal of the Planned Unit Development petition. Waiver of specific submission elements may be requested of the Plan Commission, in writing, at the time the Planned Unit Development Conceptual Plan application is made. The Plan Commission will decide upon the waiver request at its next regularly scheduled meeting; the petitioner will be notified of the decision, and the public hearing will then be scheduled. Specific grounds for waiver must be stated by the petitioner. The Conceptual Plan submission shall include the following:

(1) - Concept Plan - A drawing of the Planned Unit Development shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall indicate the concept of the development with refinements to indicate the overall land use pattern, general circulation system, open space or park system, and major features of the development. This Section does not require a detailed site plan of buildings, walks, etc. The Plan should include:

(a) - Boundary lines and dimensions of the subject site.

(b) - Existing and proposed easements--general location and purpose.

(c) - Streets on, adjacent, or proposed for the tract, including all rights-of-way and pavement widths.

(d) - Land use patterns proposed for the subject site.

(e) - Map data--name of development, name of site planner, north point, scale, date of preparation.

(2) - Site Data - A list of pertinent site data, including:

(a) - Description and quantity of land uses.

(b) - Acreage of site.

(c) - Number of dwelling units proposed and anticipated population.

(d) - Area of industrial, commercial, institutional, recreational, and circulation land uses proposed.

(e) - Densities of residential areas.

(f) - Bedroom mixes.

(3) - Objectives - A statement indicating how the proposed Planned Unit Development corresponds to and complies with objectives for Planned Unit Developments as

previously stated in this Article.

(4) - Schedule - Development schedule indicating:

(a) - States in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the Plat and through supporting graphic material.

(b) - Approximate dates for beginning and completion of each stage.

(c) - If different land use types are to be included within the Planned Unit Development, the schedule must include the mix of uses anticipated to be built in each stage.

(5) - Environmental Information - Data identifying existing natural and environmental site conditions, including:

(a) - Topography - A topographic map, if possible underlying the concept plan, at a minimum of one (1) foot contour intervals.

(b) - Flood Plain - Information from the most current source specified by the County indicating the location and extent of the regulatory flood plain.

(c) - Soils - Information from the most current U.S. Department of Agriculture - Soil Conservation Service Soils Catalog indicating the location and species of soils. If said information is not available, soil borings may be submitted.

(d) - Location and extent of existing vegetation.

(e) - A depiction of existing surface drainage patterns and proposed retention and detention areas.

(6) - Utilities - Statement indicating that sanitary sewer, storm sewer, and water are directly available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer indicating that the proposed development can be suitably served by such systems.

If utilities are not directly available to the subject site, but can be made available in a manner consistent with the County's Comprehensive Plan, prudent engineering principles, and with utility capacity parameters, then utilities may be permitted to be extended to the site. If extension of utilities is proposed, the petitioner shall submit a statement indicating the estimated improvement costs and projected source of funding for the necessary improvements. The petitioner shall specify what proportion of the utility improvements made necessary as a result of the subject development, if any, s/he will pay for. For purposes of this Section, utilities shall be considered to be "not directly available" if located more than four hundred (400) feet from the boundaries of the subject site. This provision shall apply to the extension of sanitary sewer, storm sewer, and water utilities only.

(7) - Traffic Analysis - A study providing information on the existing road network, and adjunct vehicle volumes, and the effect the proposed Planned Unit Development will have on the existing (or improved) road network.

If traffic or roadway improvements external to the subject site are anticipated as a result of the proposed development, the petitioner shall submit a statement indicating the nature and extent of those contemplated improvements. Included in said statement shall be information pertaining to what proportion of the external traffic and roadway improvements made necessary as a result of the Planned Unit Development, if any, the developer will pay for. All internal traffic and roadway improvements associated with the Planned Unit Development shall be paid for by the developer.

(8) - Tax and School Impact - A study indicating the sources and amounts of revenue to be generated to various governmental jurisdictions as a result of the development, expected school-age children generation, and estimated cost of providing service to the development that will be absorbed by the County and the affected school districts.

(9) - Market Analysis - Depending upon the types of land uses proposed to be included in a Planned Unit Development, information shall be provided from one (1) or more of the following categories:

(a) - Planned Unit Developments proposed to contain any residential uses shall require submission of at least the following market data:

1. - Details about the proposal pertaining to: housing types, floor area of dwellings, estimated price ranges, number of bedrooms, densities, amenities included, etc.
2. - An evaluation of the historical market pattern for the types of units proposed, considering the variables listed in Section 3-5-4.1b(9)(a) of this Article. Building permit issuance trends and/or surveys of existing recently constructed residential developments shall be used in this evaluation.
3. - Total anticipated demand in the County for the type of unit(s) proposed shall be estimated for the immediately subsequent five (5) year period. The percent of that demand which would be absorbed by the proposed Planned Unit Development shall be identified. Methods used in determining the five (5) year demand shall be indicated.

(b) - Planned Unit Developments proposed to contain any commercial uses shall require submission of at least the following market data:

1. - Details about the proposal pertaining to: number of users, floor area of each use area, bulk of buildings, price or rent ranges, floor area ratios, place of residence of prospective employees, etc.
2. - Trade area which the commercial development is intended to serve.
3. - Location of comparable commercial developments within the trade area.
4. - Population and effective per capita buying income of the trade area.
5. - Anticipated sales volume of the commercial development.

(c) - Planned Unit Developments proposed to contain any industrial uses shall require submission of at least the following market data:

1. - Details about the proposal pertaining to: number of users, floor area of each use area, bulk of buildings, price or rent ranges, floor area ratios, approximate number of employees, place of residence of prospective employees, etc.

- 2. - Location of other industrial development within the community.
- 3. - Market area for anticipated industries.
- (10) - Land Use and Zoning Exhibit - A graphic portrayal of existing land use and zoning patterns within a minimum of 1,320 feet of the subject site.

2. - PRELIMINARY PLAT STAGE

a. - At the time application is made for Preliminary Plat approval, the following items must be submitted to the Office of the Zoning Administrator:

(1) - If Preliminary Plat is the first Planned Unit Development submission to be made - All six (6) items listed in Section 3-5-4.4.1a of this Article. (Conceptual Plan submission requirements) shall be required to be submitted instead at the Preliminary Plat Stage.

(2) - If Conceptual Plan approval has been granted:

(a) - A notarized letter submitted by the owner(s) or their agent indicating the intent to file a Preliminary Plat as soon as a public hearing can be scheduled by the Plan Commission. Said letter shall serve as a Preliminary Plat application.

(b) - Fee - A Preliminary Plat filing fee, established by the County Commissioner to cover costs incurred by the County for review of the specific proposal. If special planning, engineering, architectural, or other consultants must be retained by the County for review of the proposed Planned Unit Development, the petitioner shall be so notified, and all costs for said consultants expended by County- not covered by the filing fee - shall be reimbursed by the petitioner.

(c) - Notification List - A list of the names and addresses of owners of all property that is situated within five hundred (500) feet of the property lines of the subject site. This list shall be current as of the date of submission. People appearing on said list will be sent notice of the public hearing in compliance with statutory requirements. In addition, the responsible fire protection district (if any), affected school districts, affected park districts, and the affected sanitary and/or drainage district shall appear on a separate list of notification. The County Road and Bridge Department will also be notified. Additional parties, specified by the petitioner, may appear on the notification list. Interested community groups, such as homeowner's associations, may request notification for projects within adjoining areas. Failure to provide an accurate list of names and addresses of owners of all property that is situated within five hundred (500) of the property lines of the subject site shall be cause for immediate dismissal of the Planned Unit Development application as well as forfeiture of all fees and expenses incurred.

b. - At the time of the public hearing on the Preliminary Plat, twenty (20) copies of all subsequent listed information shall be submitted (with the exception of non-reproducible exhibits). Failure to submit any of the required information, without a specific written waiver from the Planning Commission, shall constitute grounds for dismissal of the Planned Unit development petition. Waiver of specific submission elements may be requested of the Planning Commission, in writing, at the time the Planned Unit Development Preliminary Plat application is made. The Planning Commission will decide upon the waiver request at its next regularly scheduled

meeting; the petitioner will be notified of the decision, and the public hearing will then be scheduled. Specific grounds for waiver must be stated by the petitioner. The Preliminary Plat submission shall include the following:

(1) - All ten (10) items listed in Section 3-5-4.4.1b. (Conceptual Plan Submission requirements) shall be required to be submitted at the Preliminary Plat Stage, if the Preliminary Plat is the first Planned Unit Development Submission to be made; however, item number (1) in Section 3-5-4.4.1b is not required. If Conceptual Plan approval has been granted, these items need not be resubmitted.

(2) - Detailed Plan - A drawing of the Planned Unit Development shall be prepared at a scale of not less than 1" = 50' unless approved at another scale by the County appointed Engineer and shall show such designations as proposed streets (public and private), all buildings and their use, common open space, recreation facilities, parking areas, service areas, and other facilities to indicate the character of the proposed development. The submission may be composed of one (1) or more sheets and drawing, and must include:

(a) - Boundary lines and dimensions of the subject site.

(b) - Existing and proposed easements - general purpose and width.

(c) - Streets on, adjacent, or proposed for the tract.

(d) - Utility extensions of water lines, sanitary sewers, and storm sewers.

(e) - Land use designations for the subject site.

(f) - Retention and detention areas.

(g) - Residential lots (average lot size and minimum lot size shall be specified).

(h) - General location, purpose and height, in feet or stories, of each building other than single-family residences.

(i) - Map Data - name of development, name of site planner, north point, scale, date of preparation.

(3) - Architectural Plans - Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design of the buildings, and the number, size and type of dwelling units. Also provide floor area of building types and total ground coverage of buildings.

(4) - Adjacent Property Information - Topography of property within two hundred fifty (250) feet of the subject site, at a minimum of five (5) contour intervals, with natural drainage patterns indicated and with the subject site's topography and drainage patterns depicted. The location, size, and invert elevation of adjacent, or the closest sanitary sewer, storm sewer, and watermain, as well as documentation of these facilities' points of origin.

(5) - Community Benefit Statement - A written statement comparing the relative benefits that will accrue to the community as a result of this site being developed under Planned Unit Development provisions as opposed to conventional zoning. Specific mention should be made of open space, natural features, and architectural design. This statement supplements the "Objectives" statement that may be required with the submission of the Conceptual Plan or the Preliminary Plat. The "Objectives" statement differs from this statement, in that each of the objectives listed in Section 3-5-4.1 of this

Article must be specifically addressed. In contrast, the "Community Benefit Statement," which accompanies a detailed site plan, provides a developer the opportunity to define with particularity why his proposal merits approval and how it will serve the community better than a conventional development.

3. - FINAL PLAT STAGE

At the time the Final Plat is filed with the Plan Commission for review and recommendation, the following items must be submitted:

a. - Final Detailed Plan - A final Planned Unit Development Plat, suitable for recording with the County Recorder of Deeds, shall be prepared. The purpose of the Final Plat is to designate with particularity the land subdivided into conventional lots as well as the division of other land, not so treated, into common open areas and building areas. The Final Plat shall include:

- (1) - An accurate legal description of the entire area under immediate development within the planned development.
- (2) - A Planned Unit Development Plat of all lands which are a part of the Final Plat being submitted, and meeting all the requirement for a Final Plat. If lands which are a subject of the Final Plat are to be subdivided, than a subdivision plat is also required.
- (3) - An accurate legal description of each separate unsubdivided use area, including common open space.
- (4) - Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
- (5) - Certificates, seals, and signatures required for the dedication of lands, and recording the document.
- (6) - Tabulation of separate unsubdivided use area, including land area, number of buildings, number of dwelling units, number of bedrooms, and dwelling units per acre.

b. - Common Open Space Documents - All common open space shall be either conveyed to a municipal or public corporation, conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and residents of the Planned Unit Development, or retained by the developer with legally binding guarantees, in a form approved by the County Attorney, verifying that the common open space will permanently be preserved as open area. All land conveyed to a not-for-profit corporation or like entity shall be subject to the right of said corporation to impose a legally enforceable lien for maintenance and improvement of the common open space.

c. - Final Systems Plans - Final plans, with all required detail, shall be submitted, including:

- (1) - Engineering plans showing how the site is to be serviced with sewer, water, well, and/or septic systems (as agreed to during the Preliminary Plat Stage).
- (2) - Lighting plans.

- (3) - Drainage and storm water retention and detention plans.
- (4) - Road plans, including curbs and gutters, on-site/off-site signalization, acceleration, deceleration lanes, etc.
- (5) - Sidewalk, paths, and cycle trails.
- (6) - Landscape Plans showing the type and location of plant material, berms, and other aesthetic treatments.
- d. - Public Facilities - All on-site and/or off-site public facilities and improvements made necessary as a result of the Planned Unit Development shall be either constructed in advance of the approval of the Final Plat or subdivider's bond or approved letters of credit posted to guarantee construction of the required improvements. The subdivider's bond or approved letters of credit, payable to Jefferson County, shall be sufficient to cover the full cost of the improvements plus ten (10) percent. Detailed construction plans shall be submitted for all public facilities to be built.
- e. - Construction Plans - Detailed plans shall be submitted for the design, construction, or installation of site amenities; including buildings, landscaping, lakes, and other site improvements.
- f. - Construction Schedule - A final construction schedule shall be submitted for that portion of the Planned Unit Development for which approval is being requested.
- g. - Guarantee Deposit - A deposit shall be made to the County in cash, letter of credit approved by the County Commissioners Board in a form acceptable to the County Attorney, or maintenance bond equal to fifteen (15) percent of the estimated cost of public facility installations. The deposit shall be a guarantee of satisfactory performance of the facilities constructed within the Planned Unit Development and shall be held by the County for a period of eighteen (18) months from the date of acceptance of the facilities by the County. After such eighteen (18) months, the deposit shall be refunded if no defects have developed, or if any defects have developed, then the balance of such deposit shall be refunded after reimbursement for amounts expended in correctly defective facilities.
- h. - Delinquent Taxes - A certificate shall be furnished from the appropriate County official that no delinquent taxes exist and that all special assessments constituting a lien on the whole or any part of the property of the Planned Unit Development have been paid.
- i. - Covenants - Final agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the Planned Unit Development shall be approved by the County and recorded at the same time as the Final Planned Unit Development Plat.

3-5-4-5 - CHANGES IN THE PLANNED UNIT DEVELOPMENT

The Planned Unit Development shall be developed only according to the approved and recorded Final Plat and all supporting data. The recorded Final Plat and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees, and assigns and shall limit and control the use of premises and

location of structures in the Planned Unit Development project as set forth therein.

Changes to the recorded Planned Unit Development may be made as follows:

1. - MAJOR CHANGES

Changes which alter the concept or intent of the Planned Unit Development including increases in density, changes in the height of buildings, reductions of proposed open space, changes in total bedroom counts of more than five (5) percent, changes in bedroom mixes of more than five (5) percent, changes in the development schedule, changes in road standards, or changes in the final governing agreements, provisions, or covenants, may be approved only by submission and reconsideration of a new Preliminary and/or Final Planned Unit Development Plat, or relevant portion thereof*, and supporting data and following the Preliminary or Final Plat procedure.

If the major change alters data or evidence submitted during the Conceptual Plan or Preliminary Plan or Preliminary Plat stage, then the resubmission must begin at the Preliminary Plat stage. If only Final Plat evidence or data is altered as a result of the major change, then the resubmission shall begin at the Final Plat stage.

If major changes are proposed, a new public hearing shall be required during resubmission of the Preliminary or Final Plat.

All changes to the "original" Final Plat shall be recorded with the County Recorder of Deeds as amendments to the Final Plat or reflected in the recording of a new "corrected" Final Plat.

2. - MINOR CHANGES

The County Commissioners may, in accordance with procedures established in their rules, approve minor changes in the Planned Unit Development which do not change the concept or intent of the development.

3-5-4-6 - REVOCATION AND EXTENSION

A Planned Unit Development special use shall become null and void and the subject property shall thereupon be rezoned to its most appropriate district classification, as deemed suitable by the County Commissioners acting upon the recommendation of the Planning Commission, in any case where said Planned Unit Development has:

1. - Received Conceptual Plan approval and where the Preliminary Plat of said Planned

Unit Development, or the first phase of the Preliminary Plat if construction is to take place in phases, has not been submitted for approval within two (2) years after the date of approval of said Conceptual Plan:

2. - Received Preliminary Plat approval and where the Final Plat of said Planned Unit Development, or the first phase of the Final Plat if construction is to take place in phases, has not been submitted for approval within one (1) year after the date of approval of said Preliminary Plat; or

3. - Received Final Plat approval and where the construction of said Planned Unit Development, as authorized by the issuance of a building permit, has not begun within (1) year after the date of approval of said Final Plat dealing with such construction.

Further, if construction of a Planned Unit Development falls more than two (2) years behind the building schedule filed with the Final Plat of said Planned Unit Development, the County Commissioners, acting upon the recommendation of the Planning Commission shall either extend said schedule or initiate action to revoke the Planned Unit Development special use. In doing so, one (1) year extensions in the building schedule filed with the Final Plat of a Planned Unit Development may be granted by the County Commissioner, acting upon the recommendation of the Planning Commission. If the County so stipulates when acting favorably on a Planned Unit Development, the Planning Commission may be delegated the authority of granting such one (1) year extensions in said building schedule of said Planned Unit Development.

3-5-4-7: APPLICATION OF PROVISIONS:

In addition to the requirements of this section, planned unit and condominium developments shall also be subject to requirements set forth in title 3 (zoning).

3-5-4-8 - FINDINGS OF FACT

The Plan Commission shall, after the public hearing, set forth to the County Commissioners the reasons for the recommendation, and said recommendation shall set forth with particularity what respects the proposal would be in the public interest, including but not limited to findings of fact on the following:

1. - In what respects the proposed plan is consistent with the stated purpose of the Planned Unit Development regulations and with the Objectives stated in Section 9.1 herein.

2. - The extent to which the proposed plan meets the standards of the Planned Unit Development regulations as set forth in Section 9.2 herein.

3. - The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, dimension, area, bulk, and use, and the reasons why such departures are deemed to be in the public interest.

4. - The method by which the proposed plan makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment.

5. - The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

6. - The desirability of the proposed plan as regards physical development, tax base and economic well-being of the County.

7. - The conformity with County objectives.

3-5-4-9 - CONDITIONS AND GUARANTEES

Prior to the granting of any Planned Unit Development, the Planning Commission may recommend, and the County Commissioners may stipulate, such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation, and other elements of the Planned Unit Development as deemed necessary for the protection of the public interest, improvement of the development, protection of the adjacent area and to secure compliance with the standards specified in Article 9, Section 9.2. In all cases in which Planned Unit Developments are granted, the County Commissioners may require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection with the approval of the Planned Unit Development are being, and will be, complied with the LLUPA and County Zoning Ordinance.

3-5-4-10: CONTROL DURING DEVELOPMENT, TIME LIMIT:

Single ownership or control during development shall be required and a time limit may be imposed to guarantee the development is built and constructed as planned.

3-5-5: LARGE SCALE DEVELOPMENT SUBDIVISIONS, REQUIRED INFORMATION:

Due to the impact that a large scale development would have on public utilities and services, the developer shall submit the following information along with the preliminary plat:

A. Identification of all public services that would be provided to the development including, but not limited to, fire protection, police protection, central water, central sewer, road construction, parks and open space, recreation, maintenance, schools and solid waste collection;

- B. Estimate of the public service costs to provide adequate service to the development;
- C. Estimate of the tax revenue that will be generated from the development; and
- D. Suggested public means of financing the services for the development if the cost for the public services would not be offset by tax revenue received from the development.

3-5-6: CEMETERY SUBDIVISIONS:

- A. Submission Of Proposed Function: The developer of any cemetery subdivision shall provide the commission with written documentation that will sufficiently explain the functions of the proposed cemetery for either human or animal remains.
- B. Compliance With State Law: The developer of any cemetery subdivision shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural management requirements that are outlined in title 27, Idaho Code.

3-5-7: SUBDIVISION WITHIN A FLOOD PLAIN:

In addition to the provisions of this title, any subdivision within the designated flood plain of the county shall comply with all applicable provisions of the flood plain regulations of the county as now in effect or as may hereafter be amended.

3-5-8: SUBDIVISION WITHIN AN AREA OF CRITICAL CONCERN:

- A. Designation Of Areas Of Critical Concern: Hazardous or unique areas may be designated as an area of critical concern by the county commissioners or by the state of Idaho. Special consideration shall be given to any proposed development within an area of critical concern to assure that the development is necessary and desirable and in the public interest in view of the existing unique conditions. Hazardous or unique areas that may be designated as areas of critical concern are as follows:
 - 1. Earthquake location;
 - 2. Unstable soils;
 - 3. Unique animal life;
 - 4. Unique plant life;
 - 5. Scenic areas;
 - 6. Historical significance;
 - 7. Flood plain;
 - 8. Areas within the area of county impact zone but outside county boundaries; and
 - 3. Other areas of critical concern.
- B. Environmental Assessment Plan: The developer shall prepare and submit an environmental assessment along with the preliminary plat application for any development that is proposed within an area of critical concern.

The content of the environmental assessment shall be prepared by an interdisciplinary team of professionals that shall provide answers to the following questions:

1. What changes will occur to the area of environmental concern as a result of the proposed development?
2. What corrective action or alternative development plans could occur so as not to significantly change the area of environmental concern?
3. What changes in the area of environmental concern are unavoidable?
4. What beneficial or detrimental effect would the development have on the environment including, but not limited to, animal life, plant life, social concerns, economic, noise, visual, available farm land and other?

C. Areas Of Critical Concern: The following areas are specifically identified as areas of critical concern:

1. Snake River Flood Plain:

SECTION 6

SUBDIVISION ADMINISTRATION AND ENFORCEMENT

3-6-1: ADMINISTRATION:

The council shall appoint an administrator to carry out the provisions as herein specified and to serve at the pleasure of the council. The administrator shall receive and process all subdivision applications.

3-6-2: VACATIONS AND DEDICATIONS:

A. Application For Vacation Or Dedication: Any property owner desiring to vacate an existing subdivision, public right of way or easement shall complete and file an application with the administrator. These provisions shall not apply to the widening of any street which is shown in the comprehensive plan, or the dedication of streets, rights of way or easements to be shown on a recorded subdivision.

B. Administrative Action:

1. Action By Administrator: Upon receipt of the completed application, the administrator shall affix the date of application acceptance thereon, shall place the application on the agenda for consideration at the next regular meeting of the commission which is held not less than fifteen (15) days after the date of acceptance.

2. Recommendation By Commission: The commission shall review the request and all agency responses and within thirty (30) days of the meeting at which the issue was on the agenda, shall either approve, conditional approve or deny.

3. Action for appeals to the County Commissioners:

- a. Vacations: When considering an application for vacation procedures, the county commissioners shall establish a date for a public hearing and give such public notice as

required by law. The county commissioners may approve, deny or modify the application. Whenever public rights of way or lands are vacated, the county commissioners shall provide adjacent property owners with a quit claim deed for the vacated rights of way in such proportions as are prescribed by law.

b. Dedications: When considering an application for dedication procedures, the county commissioners may approve, deny or modify the application. When a dedication is approved, the required street improvements shall be constructed or a bond furnished assuring the construction prior to acceptance of the dedication. To complete the acceptance of any dedication of land, the owner shall furnish to the county commissioners a deed describing and conveying such lands to be recorded with the county recorder.

c. Decision: The commissioners shall review the request and all agency responses and commission recommendation, and within thirty (30) days of the meeting at which the issue was on the agenda either approve, conditionally approve or deny the request.

C. Dedication Of Streets: Within a proposed subdivision, arterial and collector streets, as shown on the comprehensive plan, shall be dedicated to the public in all cases. In general all other streets also shall be dedicated to public use.

3-6-3: VARIANCES:

A. Purpose: The commission may recommend to the planning and zoning commission a variance from the provisions of this title on a finding that undue hardship results from the strict compliance with specific provisions or requirements hereof or that application of such provisions or requirements is impracticable.

B. Standards For Variances: No variance shall be favorably acted upon by the planning and zoning commission unless there is a finding, as a result of a public hearing, that all of the following exist:

1. That there are such special circumstances or conditions affecting the property that the strict application of the provisions of this title would clearly be impracticable or unreasonable. In such cases, the subdivider shall first state his reasons in writing as to the specific provision or requirement involved.

2. That strict compliance with the requirements of this title would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions or other such conditions which are not self inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this title.

3. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

4. That such variance will not violate the provisions of the Idaho Code.

5. That such variance will not have the effect of nullifying the interest and purpose of this title and the comprehensive plan.

3-6-4: AMENDMENTS:

The county commissioners may, from time to time, amend, supplement or repeal the regulations and provisions of this title upon recommendation from the commission in the following manner:

A. The commission, prior to recommending an amendment, supplement, or repeal of this title, shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard. The notice requirements provided in section 8-7-8 of this code shall be followed. Following the commission hearing, if the commission makes a material change in this title other than that published for the present hearing, further notice and hearing shall be provided before the commission forwards its recommendation to the council. A record of the hearings, findings made and actions taken shall be maintained.

B. The county commissioners, prior to adopting an amendment, supplement or repeal of this title, shall conduct at least one public hearing using the same notice and hearing procedures as the commission. The county commissioners shall not hold a public hearing, give notice of a proposed hearing nor take action until recommendations have been received from the commission. Following the hearing, further notice and hearing shall be provided before the council adopts the amendment, supplement or repeal.

3-6-5: ENFORCEMENT AND PENALTIES:

A. Enforcement:

1. No subdivision plat required by this title or the Idaho Code shall be admitted to the public land records of Jefferson County or recorded by the county recorder until such subdivision plat has received final approval of the county commissioners.

2. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this title until the final plat has received the approval by the county commissioners.

3. No permits for construction of any structure shall be issued on any parcel or lot until it has been determined such parcel or lot meets the requirements of this title.

4. The county attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this title.

B. Violations and Penalties: Violations of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor, and be punishable as provided in section 3-5-23 of the Zoning code. Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense. Nothing herein contained shall prevent the county commissioners or any other public official or private citizen from taking such

lawful action as is necessary to restrain or prevent any violation of this title or of the Idaho Code.

DEVELOPMENT AGREEMENT BETWEEN
THE COUNTY OF JEFFERSON, IDAHO, AND
[NAME]
RELATIVE TO THE PROPERTY KNOWN AS [NAME OF PROPERTY]

THIS DEVELOPMENT AGREEMENT (hereinafter this “Agreement”) is entered into as of this ___ day of _____, 20___, by and between the COUNTY OF JEFFERSON, a Political Subdivision of the State of Idaho, party of the first part, (hereinafter called the “County”), and [NAME], party of the second part, (hereinafter called the “Developer”), pursuant to the authority of Idaho Code § 67-6511A, *et seq.*

WITNESSETH:

WHEREAS, Developer is the sole owner, in law and/or equity, of a certain tract of land in the County of Jefferson, State of Idaho, which land is hereinafter referred to as the “Project”; and,

WHEREAS, County has authority to rezone property pursuant to Title 8 of the Jefferson County Code and Section 67-6504 of the Idaho Code; and,

WHEREAS, County has authority to enter into development agreements to condition rezones; and,

WHEREAS, Developer desires to be assured that it may proceed with development of the Project in accordance with this Agreement. In order to obtain this

benefit, Developer has determined that it is advantageous to Developer to enter into the Agreement.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the parties agree as follows:

Section 1. Development Of The Project.

1.1 Effective Date. In accordance with Idaho Code § 67-6511A, this Agreement will be effective upon the publication of Ordinance [**ORDINANCE #**], approving the rezone for the Project.

1.2 Permitted Use, Density, and Intensity of Use. This Agreement shall vest the right to develop the Project, as described in Exhibit “1” attached hereto and by this reference made a part hereof, with respect to the approved application(s) as restricted by the Conditions of Approval attached to this Agreement as Exhibit “2”.

Failure to comply or bond for completion of the Project within the time frame established in the Conditions of Approval, Title 3 of the Jefferson County Code or the terms of this Agreement shall result in a default of this Agreement by the Developer.

1.3 Schedule: The schedule for development of the Project is as contained in the Conditions of Approval attached hereto.

In the event the Developer fails to commence or complete the Project within the time periods herein stated, the Developer shall be in default of this Agreement.

1.4 Changes in State and Federal Law. This Agreement shall not preclude the application to the Project of any law that is specifically mandated and required by changes in state or federal laws or regulations. In the event such law prevents or

precludes compliance with one or more provisions of this Agreement, County and Developer shall meet and confer to determine how provisions of this Agreement would need to be modified or suspended in order to comply with the law and shall prepare and process the necessary amendment or amendments to this Agreement, or the Board may elect to terminate this Agreement pursuant to Section 3.5.

1.5 Police Power. Nothing in this Agreement shall be construed to be in derogation of the County's police power to protect the public health and safety in the case of an emergency. For purposes of determining whether the County can exercise its police power inconsistent with the provisions and conditions of this Agreement, "emergency" shall mean a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services involving the Property or the community.

Section 2. Cooperation In The Event Of Legal Action. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action or proceeding. The County and Developer may agree to select mutually agreeable legal counsel to defend such action or proceeding, or each party may select its own legal counsel at each party's expense. In no event shall the County be required to bear the cost of such defense(s) (except for the cost of the County's own attorneys), and Developer shall save and hold County harmless from claims or awards for third party attorneys' fees and costs.

Section 3. Violation; Annual Review; Remedies; Termination.

3.1 General Provisions. Failure or unreasonable delay by the Developer to perform any term or provision of this Agreement, after written notice thereof from the County, shall constitute a violation under this Agreement. Said notice shall specify the nature of the alleged violation and the manner in which said violation may be satisfactorily cured. If the nature of the alleged violation is such that it cannot reasonably be cured within 90 days after written notice, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period.

Subject to the foregoing, after notice and expiration of the 90-day period without cure, the violation will be deemed a default under this Agreement and the County, at its option, may institute legal proceedings pursuant to this Agreement and/or give notice of intent to terminate the Agreement.

Evidence of violation may also arise in the course of the regularly scheduled annual review of this Agreement as described in Section 3.2, below, and any such violation shall be subject to the provisions of this Section 3.1, in addition to the provisions of Section 3.2, below.

3.2 Annual Review. Each year during the term of this Agreement, the Developer shall submit a status report detailing the status of each condition of approval to the Director. The reasonable costs incurred by County in connection with the annual review process shall be borne by Developer. If the Director finds and determines that Developer has not complied with such terms and conditions, the Director shall schedule this Agreement for hearing in front of the Board of Jefferson County Commissioners, following the notice and hearing procedures as outlined in Idaho Code § 67-6511A.

3.3 Violations by County. In the event County violates under the terms of this Agreement, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to seek specific performance by the County. But in no event shall Developer have any right to monetary damages.

3.4 Enforced Delay; Extension of Time of Performance.

a) In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strike, walk-out, riot, flood, earthquake, fire, casualty, or act of God.

b) Performance hereunder shall not be deemed in default where delays or defaults are due to governmental agencies. An extension of time necessary to gain approval of another independent governmental agency as required in the conditions of approval will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

c) Upon the request of either party hereto, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

3.5 Termination.

a) This Agreement may be terminated, and the zoning designation upon which the use is based reversed to the previously designated District, upon the failure by the Developer to comply with the terms and conditions contained in this Agreement after notice by the County to the Developer, or upon the failure of the Developer, each subsequent owner or each other person acquiring an interest in the Project site to comply with the terms and conditions in this Agreement and after the Board has complied with the notice and hearing provisions of Idaho Code § 67-6511A.

b) This agreement terminates upon completion of conditions.

Section 4. Hold Harmless – Indemnification.

4.1 Developer shall defend, indemnify, and hold the County, its officers, agents, and employees harmless for injuries to persons or property resulting from the negligence or willful conduct of Developer, its agents or employees in performing the duties described in this Agreement.

In the event the County is alleged to be liable in any manner, as a result of acts, omissions, or negligence of Developer, the Developer shall indemnify and hold the County harmless from and against all liability, claims, loss, costs, and expenses arising out of, or resulting from, the services of the Developer. In the event the County is alleged to be liable on account of alleged acts, omissions, or negligence, or all three (3), of the Developer, the Developer shall defend such allegations through counsel chosen by the County and the Developer shall bear all costs, fees, and expenses of such defense, including, but not limited to, all attorney fees and expenses, court costs, and expert witness fees and expenses.

County agrees to hold harmless, defend, and indemnify Developer, its officers, agents, and employees from and against all claims, losses, actions or judgments for damages or injury to persons or property arising out of or in connection with any activities of County, County's agents, officials, employees, or representatives under this Agreement.

Developer guarantees the County that all services, programs, or activities provided under this Agreement will be in accordance with all applicable federal, state, and local statutes, regulations, and requirements, including, but not limited to, the Americans with Disabilities Act (ADA). Further, Developer agrees to indemnify, defend,

and hold harmless the County for any loss, expense, or damage of any type experienced by the County as a result of Developer's violation of the guarantee requirements of this paragraph.

Section 5. Notices.

5.1 Any notice, demand, or other communication ("Notice") given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested). If given by registered or certified mail, a notice shall be deemed to have been given and received on actual receipt by the addressee. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. A courtesy copy of the notice may be sent by facsimile transmission. Any party may designate any other address in substitution of the address contained herein by like written notice.

5.2 Notices shall be given to the parties at their addresses set forth below:

If to County, to:
Jefferson County Planning and Zoning
243 E Fremont
Rigby Idaho 83442
Telephone: (208) 745-9220
Facsimile: (208) 745-1386

If to Developer, to:
[NAME]
[ADDRESS]

With copy to:
Jefferson County
Attention: Prosecuting Attorney
P.O. Box 277
Rigby Idaho 83442
Telephone: 208-745-9202
Facsimile: 208-745-8160

Section 6. Assignment.

6.1 If all or any portion of the Project is transferred by Developer to any person or entity (“Transferee”), Developer may assign or transfer to Transferee all or any portion of its interests, rights, or obligations under this Agreement with respect to the transferred property. The assignment or transfer of interests, rights, or obligations under this Agreement shall not require County approval, but shall be subject to the provision of this Section 6.

6.2 It is the intent of the parties that, as the Project is developed, all requirements of the Conditions of Approval(s) shall be met. If Developer transfers any portion of the Property to a Transferee, Developer shall continue to be responsible for performing the obligations under this Agreement as to the transferred property until such time there is delivered to County a legally binding instrument substantially in the form as attached hereto (an “Assignment”) whereby Transferee agrees to perform all conditions of approval(s), and/or other obligations of this Agreement applicable to the transferred property as set forth in Idaho Code § 67-6511A. No fewer than thirty (30) days prior to entering into the Assignment, Developer shall submit to the Director a draft of the Assignment, conditions of approval(s) and any other obligations detailing the obligations to be assumed by Transferee pursuant to the Assignment.

Section 7. Entire Agreement; Counterparts; Exhibits; Recording.

7.1 Waivers. No provision or condition of this Agreement shall be considered waived unless duly amended as provided in Section 9.1. The failure of the County to require strict performance of any term or condition of this Agreement or to exercise any option herein conferred in any one or all instances shall not be construed to be a waiver or relinquishment of any such term or condition, but the same shall be and remain in full

force and effect, unless such waiver is evidenced by the prior written consent of the County.

Duty to Act Reasonably. Unless otherwise expressly provided, each party shall act reasonably in giving any consent, approval, or taking any other action under this Agreement.

7.3 Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

Exhibit 1 – Legal Description

Exhibit 2 – Conditions of Approval

Exhibit 3 – Plat

7.4 Recordation of Agreement. The County shall record an executed original of this Agreement at the Jefferson County Recorder’s Office. Developer agrees to pay all recording fees necessary to record this Agreement with the Jefferson County Recorder’s Office.

Section 8. Covenants Appurtenant To The Project.

8.1 All covenants and conditions set forth herein shall be appurtenant to and run with the Project and shall be binding upon Developer’s heirs, successors, and assigns.

Section 9. Miscellaneous.

9.1 Amendment. Modifications to this Agreement may be made only by the permission of the Board after complying with the notice and hearing provisions of Idaho Code § 67-6511A.

9.2 Interpretation: Any term contained in this Agreement will be defined pursuant to Title 3 of the Jefferson County Code and if not contained therein general common understanding of the word will apply.

9.3 No Agency, Joint Venture or Partnership. County and Developer hereby renounce the existence of any form of joint venture or partnership between the County and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making County and Developer joint venturers or partners.

9.4 Severability. If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid, void, or unenforceable, such provision shall be disregarded and this Agreement shall continue in effect. However, if such provision is not severable from the balance of the Agreement so that the mutually dependent rights and obligations of the parties remain materially unaffected, this Agreement shall become void.

9.5 Construction. This Agreement has been reviewed and revised by legal counsel for both County and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. This instrument constitutes and contains the entire Agreement of the parties and supersedes and merges all other prior understandings and/or agreements between the parties, if any, whether verbal or written.

9.6 Choice of Law. This Agreement and its performance shall be construed in accordance with and governed by the laws of the State of Idaho, with venue for any

action brought pursuant to this Agreement to be in the Fourth Judicial District, State of Idaho.

9.7 Merger and Integration. This writing embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in this Agreement. All previous and contemporaneous communications, representations, or agreements, either verbal or written, between the parties are superseded by this Agreement.

9.8 Third Party Beneficiaries. Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

Board of Jefferson County Commissioners

By: _____
Ronnie Baxter, Chairman

By: _____
Brett Olaveson, Commissioner

By: _____
Tad Hegsted, Commissioner

ATTEST:

Christine Boulter, Jefferson County Clerk

STATE OF IDAHO)
) ss.
County of Jefferson)

On this ____ day of _____, 20__, before me a notary public, personally appeared Brett Olaveson, Ronnie Baxter, and Tad Hegstead, known or identified to me, to be the County Commissioners of Jefferson County, that executed the said instrument, and acknowledged to me that Jefferson County executed the same.

Notary Public for Idaho
Commission Expires _____

Developer

By

Title

[Use the following if corporation is signing the Agreement - Delete individual notary and this prompt]

STATE OF IDAHO)
) ss.
County of Jefferson)

On this ____ day of _____, 20__, before me, a Notary Public, personally appeared _____, known or identified to me to be the _____ of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho

Commission Expires _____

[Use the following if an individual is signing the Agreement – Delete corporate notary line and this prompt]

STATE OF IDAHO)
) ss.
County of Jefferson)

On this ____ day of _____, 20__, before me, a notary public, personally appeared _____, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

Notary Public for Idaho

Commission Expires _____

SECTION VI: This ordinance shall become effective upon its passage, approval and publication.

PASSED BY THE COUNTY COMMISSIONERS on this 24th day of April, 2006.

RON BAXTER, Chairman

TAD HEGSTED, Commissioner

BRETT OLAVESON, Commissioner

ATTEST:

CHRISTINE BOULTER, County Clerk

(SEAL)