

ORDINANCE NO. 3469

(ZOA-17-881756 – Development Code Update - Golf Courses, Parks, Open Spaces and PS-zoned Land)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 OF THE HENDERSON MUNICIPAL CODE – HENDERSON DEVELOPMENT CODE - BY AMENDING PORTIONS OF SECTIONS 19.5.4, 19.5.5, 19.6.4, 19.6.10 AND 19.7.8, TO ADDRESS THE CLOSURE, MAINTENANCE AND REDEVELOPMENT OF GOLF COURSES, PARKS, OPEN SPACE AND PS- ZONED LAND AND TO MAKE CERTAIN CLERICAL REVISIONS.

- WHEREAS, the City Council of the City of Henderson (the “City Council”) has statutory authority pursuant to NRS to 278.020 to regulate and restrict the improvement of land and to control the location and soundness of structures within its jurisdiction for the purpose of promoting health, safety, morals and the general welfare of the community; and
- WHEREAS, pursuant to this authority, on January 19, 2010, the City Council adopted City of Henderson Municipal Code Title 19 – Henderson Development Code (as the same may be amended from time-to-time by the City Council, the “Development Code”); and
- WHEREAS, the City Council considers the Development Code a “living document,” which will invariably need amending for corrections, revisions and necessary updates; and
- WHEREAS, the closing, conversion and redevelopment of golf courses, parks, common open spaces and “public space” (PS-zoned) real property (collectively, “Subject Properties”), as well as the ongoing maintenance of Subject Properties, is an emerging national issue impacting the City of Henderson; and
- WHEREAS, the City Council deems an amendment to the Development Code necessary to address the scope, scale and potential impacts associated with the closing, conversion and redevelopment of Subject Properties; and
- WHEREAS, through these proposed amendments, the City Council intends to create development standards using best practices to substantially preserve the community’s existing quality of life while simultaneously permitting innovation and the creation of new amenities to compensate for any existing amenities lost through redevelopment of Subject Properties, where appropriate; and
- NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

Ordinance No. 3469

ZOA-17-881756 – Development Code Update - Golf Courses, Parks, Open Spaces and PS-zoned Land

SECTION 1. Subsections (i) 19.5.4.M – Park and Recreation Facility, (ii) 19.5.5.T – Golf Course or Driving Range, (iii) 19.6.4.C – Rezoning, (iv) 19.6.4.D – MP or PUD Overlay, (v) 19.6.10.A – Other Procedures – Development Agreements, and (vi) Section 19.7.8 – Operational Performance of the Development Code, are hereby amended as represented in Exhibit A, hereto attached consisting of seventeen (17) pages.

SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on February 23, 2018, in the Review Journal.

//

//

//

//

//

//

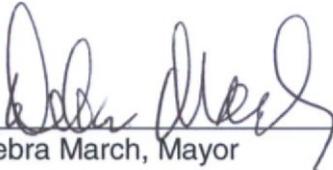
//

//

Ordinance No. 3469  
ZOA-17-881756 – Development Code Update - Golf Courses, Parks, Open Spaces and PS-zoned Land

PASSED, ADOPTED, AND APPROVED THIS 20<sup>TH</sup> DAY OF FEBRUARY, 2018.



  
Debra March, Mayor

ATTEST:

  
Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on February 6, 2018, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on February 20, 2018, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held February 20, 2018, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye: Debra March, Mayor  
Councilmembers:  
John F. Marz  
Gerri Schroder  
Dan K. Shaw  
Dan H. Stewart

Those voting nay: None  
Those abstaining: None  
Those absent: None



  
Debra March, Mayor

ATTEST:

  
Sabrina Mercadante, MMC, City Clerk

Ordinance No. 3469

ZOA-17-881756 – Development Code Update - Golf Courses, Parks, Open Spaces and PS-zoned Land

Exhibit A

(Attached - 19.5.4.M – Park and Recreation Facility; 19.5.5.T – Golf Course or Driving Range; 19.6.4.C – Rezoning; 19.6.4.D – MP or PUD Overlay; 19.6.10.A – Other Procedures – Development Agreements; and 19.7.8 – Operational Performance of the Development Code)

## 19.5.4.M – Park and Recreation Facility

### M. PARK AND RECREATION FACILITY

| RESIDENTIAL |      |      |      |      |            |       |       |           |     |    | PUBLIC |    |
|-------------|------|------|------|------|------------|-------|-------|-----------|-----|----|--------|----|
| RS-1        | RS-2 | RS-4 | RS-6 | RS-8 | RM-10      | RM-16 | RH-24 | RH-36     | RMH | DH | PS     | DP |
| C           | C    | C    | C    | C    | C          | C     | C     | C         | C   | C  | C      | P  |
| COMMERCIAL  |      |      |      |      | INDUSTRIAL |       |       | MIXED-USE |     |    |        |    |
| CN          | CO   | CC   | CH   | CT   | CA         | IL    | IG    | IP        | MC  | MN | MR     |    |
| C           | C    | C    | C    | C    | C          |       |       | S         | P   | P  | P      |    |

**1. Definition**

Noncommercial parks, playgrounds, recreation facilities, and open spaces.

**2. Standards**

(a) Residential Districts

Private or nonpublic park and recreation facilities shall not include commercial functions.

(b) CN, CO, CC, CH, CT, CA, and IP Districts

Park and recreation facilities shall be a maximum size of two acres.

(c) PS District

Park and recreation facilities shall be subject to review by the Parks and Recreation Board.

(d) If a park, recreational facility or open space discontinues daily operation or maintenance, see 19.7.8.L Operation and Maintenance Closure Plan.

**3. Off-Street Parking Requirement**

Schedule "C" (Section 19.7.4.C.3)

**4. Off-Street Loading Group**

None.

## 19.5.5.T – Golf Course and Driving Range

### T. GOLF COURSE OR DRIVING RANGE

| RESIDENTIAL |      |      |      |      |            |       |       |       |           |    | PUBLIC |    |
|-------------|------|------|------|------|------------|-------|-------|-------|-----------|----|--------|----|
| RS-1        | RS-2 | RS-4 | RS-6 | RS-8 | RM-10      | RM-16 | RH-24 | RH-36 | RMH       | DH | PS     | DP |
|             |      |      |      |      |            |       |       |       |           |    | C      |    |
| COMMERCIAL  |      |      |      |      | INDUSTRIAL |       |       |       | MIXED-USE |    |        |    |
| CN          | CO   | CC   | CH   | CT   | CA         | IL    | IG    | IP    | MC        | MN | MR     |    |
|             |      |      |      | C    |            |       |       |       |           |    |        |    |

#### 1. Definition

A tract of land, either public or private, laid out for at least nine holes for playing the game of golf and improved with tee boxes, greens, fairways, and hazards. This use also includes a driving range, which is a limited area on which golf players drive golf balls from a central driving tee. Such uses may include related facilities such as clubhouses, golf schools, and accessory uses such as a restaurant or restaurant with a bar, pro shops, and related facilities.

#### 2. Standards

- (a) Any proposed alcohol or liquor use shall comply with Section 19.5.5.A.1, *Distance Limitations for Alcohol and Liquor Uses*, and all Title 4 requirements for the subject use.
- (b) The use shall comply with applicable turf restrictions in HMC Titles 14 and 19.
- (c) If a golf course and/or driving range discontinues operation, see 19.7.8.L *Operation and Maintenance Closure Plan*.

#### 3. Off-Street Parking Requirement

- (a) Golf course: 4 spaces per hole plus spaces provided for accessory uses.
- (b) Driving range: 1 space per tee.

#### 4. Off-Street Loading Group

Group One (Section 19.7.4.D)

## 19.6.4.C– Rezoning approval criteria

### C. REZONINGS

This section includes the procedure for the review of applications for all amendments to the zoning map (rezonings), except for amendments to the Master Plan (MP) and Planned Unit Development (PUD) overlays, which are covered in subsection D below.

#### 1. Neighborhood Meeting Required

Applications to amend the official zoning map may require a neighborhood meeting held in accordance with the procedures in Section 19.6.3.B.3, *Neighborhood Meetings*, after submittal of a formal application.

#### 2. Application Filing

Applications for zoning map amendments shall be submitted to the Community Development and Services Director.

#### 3. Public Hearing Notice

Notice of public hearings on zoning map amendments shall be published, mailed, and posted in accordance with Section 19.6.3.B.4, *Public Notice*.

#### 4. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed zoning map amendment in light of the approval criteria of Section 19.6.4.C.7, *Map Amendment Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

#### 5. Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed zoning map amendment and at the close of the public hearing make a recommendation to the City Council based on the approval criteria of Section 19.6.4.C.7, *Map Amendment Approval Criteria*. Approval may be recommended for a less intensive zoning classification than requested by the applicant without re-notification.

#### 6. City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed zoning map amendment, based on the approval criteria of Section 19.6.4.C.7, *Map Amendment Approval Criteria*. Approval may be granted for a less intensive zoning classification than requested by the applicant without re-notification.

#### 7. Map Amendment Approval Criteria

(a) Recommendations and decisions on zoning map amendments shall be based on consideration of all of the following criteria:

- (1) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact.
- (2) Whether the proposed amendment is consistent with the Comprehensive Plan and the stated purposes of Section 19.1.4, Purpose and Intent.

#### 19.6.4.C– Rezoning approval criteria

- (3) Whether the proposed amendment will protect the health, safety, morals, or general welfare of the public.
  - (4) Whether the City and other service providers will be able to provide sufficient public safety, transportation and utility facilities, and services to the subject property, while maintaining sufficient levels of service to existing development.
  - (5) Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.
  - (6) Whether the proposed amendment will have significant adverse impacts on other property in the vicinity of the subject property.
  - (7) The suitability of the subject property for the existing zoning classification and proposed zoning classification.
  - (8) The need for the proposed use at the proposed location.
- (b) In addition to the above-listed criteria, any proposed amendment that would reduce the density or intensity of uses on property (i.e., result in a “down-zoning”) is subject to additional approval criteria in accordance with NRS 278.260. These criteria apply if at least 20 percent of the property owners to whom notices were sent indicate opposition to the proposed amendment. These criteria require the governing body to:
- (1) Consider separately the merits of each aspect of the proposed amendment to which any property owner(s) expressed opposition.
  - (2) Make a written finding that the public interest and necessity will be promoted by the approval of the proposed amendment.
- (c) In addition to the criteria listed in subsection (a) above, any proposed zoning amendment that would result in the redevelopment or change in use of a golf course, park, open space or PS-zoned land, is subject to the following additional approval criteria which must be addressed in the proposed amendment. These criteria require the governing body to consider:
- (1) Mitigation of impacts of the proposed land uses on schools, traffic, parks, emergency services, utility infrastructure, and any other potential impacts identified by the Director of Community Development and Services; and
  - (2) Provision of a compensating benefit for the loss of the larger, contiguous open space to the surrounding neighborhood as a result of the redevelopment or change in use; and
  - (3) The preservation of open space beyond what would be required under the requested zoning and in furtherance of the goals and objectives of the City’s Comprehensive Plan with regard to protection of open space; and
  - (4) Compliance with the closure plan required by Section 19.7.8.L.

**D. TO MP OR PUD OVERLAY**

This section includes the procedure for the review of applications for amendments to the zoning map to apply either the Master Plan (MP) or Planned Unit Development (PUD) overlay.

**1. Rezoning to MP Overlay**

**(a) Concept Plan Review**

An applicant for rezoning to the MP overlay shall submit a concept plan prior to application submittal, in accordance with Section 19.6.3.A.3, *Concept Plans*.

**(b) Neighborhood Meeting**

Following review of a concept plan, an applicant for rezoning to the MP overlay shall conduct a neighborhood meeting in accordance with Section 19.6.3.B.3, *Neighborhood Meetings*.

**(c) Application**

**(1) Master Plan Required for Rezoning to MP Overlay**

i. An application for rezoning to the MP overlay shall include a MP prepared to the specifications of the City. Approval of a MP at the time of rezoning is required prior to development in the MP overlay. The MP represents a generalized land use/site plan for the area proposed to be included within a planned development. It is required as a means of allowing early review before detailed planning and engineering work are undertaken and before substantial expenses are incurred.

ii. A MP must cover all of the land area to be included in the planned development. The MP shall be accompanied by a terms and conditions statement, which is a textual description of all adopted conditions of approval, a description of how the planned development will meet or exceed the minimum standards of the Code, and the compensating benefits to be provided (if any).

**(2) Filing**

Applications for MP rezoning approval shall be submitted to the Community Development and Services Director.

**(d) Public Hearing Notice**

Notice of public hearings on the MP rezoning application shall be published, mailed, and posted in accordance with Section 19.6.3.B.4, *Public Notice*.

**(e) Community Development and Services Director Review and Report**

The Community Development and Services Director shall review each proposed MP rezoning in light of the applicable approval criteria of Section 19.6.4.D.1(h), *Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

(f) Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed MP rezoning and, within 60 days of the date of the public hearing, make a recommendation to the City Council, based on Section 19.6.4.D.1(h), *Approval Criteria*.

(g) City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed MP rezoning based on the approval criteria of Section 19.6.4.D.1(h), *Approval Criteria*.

(h) Approval Criteria

A MP rezoning may be approved only if the City Council finds that all of the following criteria have been met:

- (1) The proposal is consistent with the Comprehensive Plan;
- (2) The planned development addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in common open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;
- (3) The planned development complies with the applicable standards of Section 19.4.4, *Master Plan Development Overlay*;
- (4) The proposal mitigates any potential significant adverse impacts to the maximum practical extent;
- (5) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development;

[end]

(6) The same development could not be accomplished through the use of other techniques, such as rezonings, variances, or administrative adjustments; and

(7) In addition to the above-listed criteria, any proposed master plan amendment that would result in the redevelopment or change in use of a golf course, park, open space or PS-zoned land, is subject to the following additional approval criteria which must be addressed in the proposed amendment. These criteria require the governing body to consider:

i. Mitigation of impacts of the proposed land uses on schools, traffic, parks, emergency services, utility infrastructure, and any other potential impact identified by the Director of Community Development and Services;

ii. Provision of a compensating benefit for the loss of the larger, contiguous open space to the surrounding neighborhood as a result of the redevelopment or change in use;

iii. The preservation of open space beyond what would be required under the requested master plan amendment and in furtherance of the goals and objectives of the City's Comprehensive Plan with regard to protection of open space; and

iv. Compliance with the closure plan required by Section 19.7.8.L

(i) Conditions of Approval

The following shall be standard conditions of the approval of all applications:

(1) The development standards in the applicant's submitted MP shall be deemed to be incorporated within the action of the City Council in its approval of the map amendment, except as modified in the specific terms of the approval. All future development within the boundaries of the MP overlay district shall comply with the terms of the approved MP.

(2) The requirements of the general zoning district(s) in which the property is located shall remain applicable within the overlay district except as modified within the approved MP and as may be further modified by the City Council in its approval.

(j) Appeals

Appeals shall be made in accordance with Section 19.6.9.E, *Appeals*.

(k) Recordation

The City shall record the adopting ordinance, MP, and the terms and conditions statement with the City. They shall be binding upon the

landowners, their successors, and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the MP and in the terms and conditions statement. A copy of the recorded documents shall be provided to the City prior to issuance of a building permit.

(l) Amendments to an Approved Master Plan

- (1) Any request for amendment to an approved MP that increases the number of dwelling units, increases the project's density, increases the number of building lots, decreases the amount of common open space, alters a road pattern, or requests new waivers of Code requirements shall be initiated and processed in the same manner as a new application.
- (2) However, if the Community Development and Services Director determines that the requested changes are, in his or her discretion, minor and do not include substantial alterations to the MP conditions of approval, and are consistent with the intent of the original approval, the Community Development and Services Director may approve the changes.
- (3) The following are provided as illustrative examples of the types of amendments that the Community Development and Services Director may reasonably consider to be minor with respect to an approved MP:
  - i. Changes in the size of a particular use;
  - ii. Changes in the height of a proposed use;
  - iii. Changes in the housing mix or use-mix ratio; or
  - iv. Changes that do not result in a change in the character of the development, or the development's relationship with adjacent lands.

**2. Rezoning to PUD Overlay**

(a) Concept Plan Review

An applicant for rezoning to the PUD overlay shall submit a concept plan prior to application submittal, in accordance with Section 19.6.3.A.3, *Concept Plans*.

(b) Neighborhood Meeting

Following review of a concept plan, an applicant for rezoning to the PUD overlay shall conduct a neighborhood meeting in accordance with Section 19.6.3.B.3, *Neighborhood Meetings*.

(c) Application

- (1) Plan required for Tentative Approval of Rezoning to PUD Overlay

An application for tentative approval of a PUD overlay must include a plan, as that term is defined in NRS 278A.060, which contains the following elements, as applicable:

- i. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed;
- ii. The density of land use to be allocated to parts of the site to be developed;
- iii. The location and size of any common open space and the form of organization proposed to own and maintain any common open space;
- iv. The use and the approximate height, bulk and location of buildings and other structures;
- v. The ratio of residential to nonresidential use;
- vi. The feasibility of proposals for disposition of sanitary waste and storm water;
- vii. The substance of covenants, grants, easements or other restrictions proposed to be imposed upon the use of the land, buildings, and structures, including proposed easements or grants for public utilities;
- viii. The provisions for parking of vehicles and the location and width of proposed streets and public ways;
- ix. The required modifications in the site standards otherwise applicable to the subject property and
- x. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the PUD are intended to be filed.

PUDs must also meet the standards set forth in HMC 19.4.5, *Planned Unit Development Overlay*. A plan may also contain the minimum standards of design contained in NRS 278A.230 through NRS 278A.370, inclusive.

(2) Filing

Applications for PUD rezoning approval shall be submitted to the Community Development and Services Director.

(d) Public Hearing Notice

Notice of public hearings on the tentative approval of a PUD rezoning application shall be published, mailed, and posted in accordance with Section 19.6.3.B.4, *Public Notice*.

(e) Community Development and Services Director Review and Report

The Community Development and Services Director shall review each tentative PUD rezoning in light of the applicable approval criteria of Section 19.6.4.D.2.h, *Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

(f) Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the tentative PUD rezoning and, within 60 days of the date of the public hearing, make a recommendation to the City Council, based on Section 19.6.4.D.2.h, *Approval Criteria*.

(g) City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the tentative PUD rezoning based on the approval criteria of Section 19.6.4.D.2.h, *Approval Criteria*.

(h) Approval Criteria

A tentative PUD rezoning may be approved only if the City Council finds that all of the following criteria have been met, written findings of which must be set forth particularly in the minutes:

- (1) The proposal is consistent with the Comprehensive Plan;
- (2) The PUD addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in common open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;
- (3) The planned development complies with the applicable standards of Section 19.4.5, *Planned Unit Development Overlay*;
- (4) The proposal mitigates any potential significant adverse impacts to the maximum practical extent;
- (5) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development; and
- (6) The same development could not be accomplished through the use of other techniques, such as rezonings, variances, or administrative adjustments;

- (7) In what respects the plan is or is not consistent with the statement of objectives of a PUD;
- (8) The extent to which the plan departs from zoning and subdivision regulations, otherwise applicable to the property, including but not limited to density, bulk, and use, and the reasons why these departures are or are not deemed to be in the public interest;
- (9) The ratio of residential and nonresidential use in the PUD;
- (10) The purpose, location and amount of the common open space in the PUD, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
- (11) The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
- (12) The relationship, beneficial or adverse, of the proposed PUD to the neighborhood in which it is proposed to be established; and
- (13) The case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public, residents and owners of the PUD in the integrity of the plan.

The minutes of record shall also set forth the time in which the application for final approval of the PUD must be filed and a copy must be mailed to the landowner.

- (14) In addition to the above-listed criteria, any proposed PUD amendment that would result in the redevelopment or change in use of a golf course, park, open space or PS-zoned land, is subject to the following additional approval criteria which must be addressed in the proposed amendment. These criteria require the governing body to consider:
  - i. Mitigation of impacts of the proposed land uses on schools, traffic, parks, emergency services, utility infrastructure, and any other potential impact identified by the Director of Community Development and Services;
  - ii. Provision of a compensating benefit for the loss of the larger, contiguous open space to the surrounding neighborhood as a result of the redevelopment or change in use;
  - iii. The preservation of open space beyond what would be required under the requested PUD amendment and in furtherance of the goals and objectives of the City's

Comprehensive Plan with regard to protection of open space; and

iv. Compliance with the closure plan required by Section 19.7.8.L

(i) Conditions of Approval

The following shall be standard conditions of approval on all tentative PUD rezoning applications:

- (1) The development standards in the applicant's submitted PUD shall be deemed to be incorporated within the action of the City Council in its approval of the zoning map amendment, except as modified in the specific terms of the approval. All future development within the boundaries of the PUD overlay district shall comply with the terms of the finally approved PUD except as otherwise provided in this Section.
- (2) The requirements of the general zoning district(s) in which the property is located shall remain applicable within the overlay district except as modified within the finally approved PUD and as may be further modified by the City Council in its approval.

(j) Final Approval of a Planned Unit Development

- (1) Staff may approve a final PUD, and a public hearing on an application for final approval of a PUD is not required, if the plan is in substantial compliance with the plan given tentative approval, meaning it does not:
  - i. Vary the proposed gross residential density or intensity of use;
  - ii. Vary the proposed ratio of residential to nonresidential use;
  - iii. Involve a reduction of area set aside for common open space or the substantial relocation of such area;
  - iv. Substantially increase the floor area proposed for nonresidential use; and/or
  - v. Substantially increase the total ground areas covered by buildings or involve a substantial change in the height of buildings.
- (2) A public hearing need not be held to consider modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewage on an application for final PUD.
- (3) If the proposed final PUD plan is not in substantial compliance with the tentatively approved PUD plan, the procedures set forth in NRS 278A.550 shall apply.

(k) Appeals

Appeals shall be made in accordance with Section 19.6.9.E, *Appeals*.

(l) Recordation

The City shall record the adopting ordinance, finally approved and certified PUD, and the terms and conditions statement with the City. The City shall also record any amendments to the finally approved PUD. They shall be binding upon the landowners, their successors, and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the finally approved PUD and in the terms and conditions statement. A copy of the recorded documents shall be provided to the City prior to issuance of a building permit.

(m) Amendments to a Finally-Approved Planned Unit Development

(1) Once finally approved, an amendment to a PUD modifying, removing or releasing any of the following requires a public hearing:

- i. Plat of subdivision;
- ii. Covenants relating to use of the land and buildings;
- iii. Location or increased bulk of buildings and other structures;
- iv. Ratio of residential to nonresidential uses; or
- v. Intensity of use or density of development, private streets, ways and parking facilities, common open space (in terms of quantity and location) or public facilities.

(2) At the public hearing approving an amendment under subsection (1), the Planning Commission must determine that the modification, removal or release of the provisions of the plan:

- i. Is consistent with the efficient development and preservation of the entire PUD;
- ii. Does not adversely affect either the enjoyment of land abutting upon or across a street from the PUD or the public interest; and
- iii. Is not granted solely to confer a private benefit upon any person.

(3) If a PUD was originally tied to an underlying tentative map or zoning application, any applicable amendment procedures for such application shall also be followed.

(4) An amendment to a finally-approved PUD shall be recorded.

(n) Variances from a Finally-Approved Planned Unit Development

The Community Development and Services Director may grant a deviation of less than 10 percent from requirements established within a PUD without conducting a hearing (i) with the written consent of the owner of any real property that would be affected by the deviation, and (ii) upon a finding that the deviation will not impair the purpose of the PUD or any regulations adopted by the governing body pursuant to NRS 278.250.

**19.6.10. OTHER PROCEDURES**

**A. DEVELOPMENT AGREEMENTS**

**1. Applicability**

A development agreement is appropriate for development of those parcels that should, at the discretion of the City Council, as recommended by the Development Agreement Advisory Committee (DAAC), be developed in accordance with a development agreement. Development projects that include one or more of the following are subject to development pursuant to a development agreement unless otherwise determined by the DAAC:

- (a) A local improvement district or modification to a local improvement district pursuant to NRS Chapter 271;
- (b) A refunding agreement entered into pursuant to HMC 14.16;
- (c) A request to waive residential construction tax;
- (d) An annexation of any size;
- (e) Projects with a Sensitive Lands overlay or projects requiring a plan for environmental remediation;
- (f) A project requiring the preservation or renovation of historic structures;
- (g) A project for which a request for redevelopment funds or tax-increment financing is made;
- (h) A project that includes one or more of the following:
  - (1) 250 or more single-family dwelling units;
  - (2) 500 or more multifamily dwelling units;
  - (3) 200 or more hotel rooms;
  - (4) 40 or more acres of nonresidential development; or
  - (5) A project that generates over 3000 average daily trips (commercial/industrial only).
- (i) A project that includes one or more of the following:
  - (1) A facility that generates more than 50 megawatts of electricity;
  - (2) A natural gas storage or peak-shaving facility; or
  - (3) A gas regulator station or main that operates or is capable of operating at over 200 pounds per square inch.
- (j) Property proposed for a master plan development overlay where existing infrastructure is not of sufficient capacity to support the proposed development;
- (k) Property acquired through a Bureau of Land Management (BLM) land sale;

### 19.6.10.A Development Agreements

---

- (l) Property acquired through a City of Henderson sale pursuant to NRS 268.048 et seq.;
- (m) Property located within the West Henderson Land Use Plan boundary;
- (n) Property located within a public facilities needs assessment area;
- (o) Development of a property currently or previously subject to an inactive, non-compliant, or cancelled development agreement; ~~[or]~~
- (p) Proposed amendments or development changes to property currently subject to any one or more of the above; or
- ~~(q) A proposal to redevelop or change the use of a golf course, park, open space or PS-zoned land.~~

## 19.7.8.L – Operational Performance – Operation and Maintenance Closure Plan

### 19.7.8. OPERATIONAL PERFORMANCE

#### L. Operation and Maintenance Closure Plan for Golf Course, Park, Open Space or PS-zoned land

1. If any portion of a private golf course, park, open space or PS-zoned land discontinues daily operation or maintenance, the Community Development and Services Department may notify the property owners of the requirement to comply with this section by posting notice at the subject site and by certified mail. Within ten (10) days of receiving the notice from the City to comply with this section, the property owner shall meet with the Community Development and Services Department to discuss the proposed plans for the property, the process, and steps to ensure compliance with this section. Within 30 days of posting and mailing of the notice from the City to comply with this section, the property owner shall submit an Operation and Maintenance Closure Plan (the Plan), which shall be considered for final action by the City Council at a public meeting. The purpose of the Plan is to maintain the health, safety, aesthetic, economic and general welfare of those properties abutting the subject site, and to protect the neighborhoods against nuisances, blight and deterioration by establishing minimum requirements for the maintenance of the subject site. The Plan must ensure the property is maintained (i) to the same level as existing on the date of the discontinuance of operation or maintenance, or (ii) if in a state of disrepair on the date of discontinuance of operation or maintenance, at a level acceptable to the City pursuant to the requirements of Titles 15 and 19, until such time as a new property development plan is approved by City Council. The Plan at a minimum must:
  - a. Detail how existing structures and buildings, parking areas, greens, fairways, driving ranges, landscaping and plant materials, security lighting, water features, reservoirs and other applicable features located within the property will be maintained and secured in compliance with Titles 15 and 19;
  - b. Ensure that any existing water features be in kept in clean operating condition free of debris, algae, and stagnation;
  - c. Ensure that all irrigation systems shall be fully operational at all times and if in disrepair, repairs must be completed as promptly as possible;
  - d. Ensure that all exterior property areas shall be kept free from dry vegetation, tumbleweeds, weeds, bushes, tall grass, and trees which present a visual blight upon the area, which may harbor insect or rodent infestations, or which may likely become a fire hazard or result in a condition which may threaten the health and safety or welfare of adjacent property owners or occupants, and shall comply with Title 15.12;
  - e. Detail how the property will be monitored for compliance with the Plan and ensure any graffiti, trash, weeds, etc., are addressed promptly;
  - f. Provide security and monitoring details for the subject property;
  - g. Establish a service to receive comments or complaints from the public to contact regarding maintenance concerns. This information must be posted on the property in a conspicuous location, and provided via a mailing to all properties within 750 feet of the subject site, including to any advisory boards established by the City Council in the affected area and all registered property owners' associations, neighborhood associations, and City-appointed individuals serving as rural neighborhood representatives within that buffer area;
  - h. Provide documentation for any public access and utility easements and plans to ensure access is maintained;

## 19.7.8.L – Operational Performance – Operation and Maintenance Closure Plan

- i. Detail how all applicable federal, state and local permitting requirements will be met. Where reclaimed water is utilized, provide written documentation from the Nevada Division of Environmental Protection (NDEP) that confirms the State's approval to maintain an active Groundwater Discharge Permit during the time period when discontinuance of daily operation or maintenance is proposed. Where such approval is not issued by NDEP, provide detail regarding how the property will be adequately maintained in accordance with the Plan, absent the allowance for such utilization of reclaimed water; and
  - i. Provide any additional items the City determines are necessary during its review of the Plan.
2. The property owner shall conduct a neighborhood meeting prior to the item being scheduled for a City Council meeting by City staff. The neighborhood meeting shall comply with these items:
  - a. The property owner holding the neighborhood meeting shall provide mailed notice of the meeting to the same notification area and recipients as for a Rezoning application that would be required pursuant to Section 19.6.3.B.4, Public Notice.;
  - b. Notification of the neighborhood meeting shall be provided by the applicant via first-class mail postmarked a minimum of ten days in advance of the meeting. Notification shall also be provided to Community Development and Services staff at least ten calendar days prior to the meeting date.; and
  - c. The Neighborhood Meeting shall comply with the standards as stated in section 19.6.3.B.3.(a), 19.6.3.B.3.(d)(1), and 19.6.3.B.3.(d)(3) through (6).
3. Failure to comply with the provisions of this Section or the terms of the approved Plan will result in a fine of not less than \$500 per day per violation for each day the violation continues, and could result in denial of any proposed development of the property as stated in Titles 19.6.4.D.1.h.7.iv, 19.6.4.D.2.h.14.iv and 19.6.4.C.7.c.4. Nothing in this Section shall be deemed to limit the City's right to exercise remedies under Title 15. The City Council approved Plan may be recorded against the property at the property owner's expense.