

VBC/CT

Advance Packet

Dated: December 30, 2010

Monday, January 11, 2010, Council Meeting

Included in this packet is documentation to support the following Agenda items:

PUBLIC HEARINGS/ORDINANCES/RESOLUTIONS

- File No. **LDC-14-09**, Chapter 17.70 Master Plan Development District of the BMC, City initiated. The criteria used to decide this matter is found in Chapter 17.140 Amendments, of the Brookings Municipal Code (BMC). This is a legislative hearing and the City Council will make a decision.
 - a. Public Hearing pg. 2
 - b. Adopting Ordinance pg. 16

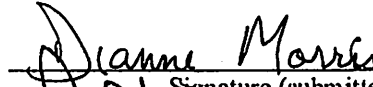
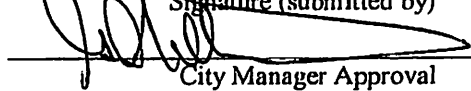
- File No. **LDC-15-09**, Chapter 17.56 Tourist Commercial District (C-4) of the BMC, City initiated. The criteria used to decide this matter is found in Chapter 17.140 Amendments, of the BMC. This is a legislative hearing and the City Council will make a decision.
 - a. Public Hearing pg. 29
 - b. Adopting Ordinance pg. 33

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 11, 2010

Originating Dept: Planning


Signature (submitted by)

City Manager Approval

Subject: A hearing on File LDC-14-09 for consideration and possible adoption of revisions to Chapter 17.70, Master Plan Development District, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.70, Master Plan Development District, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee reviewed Chapter 17.70, Master Plan Development. The City's Land Use Attorney, Jim Spickerman, also reviewed the draft and made recommendations that were employed. The main reason to draft a revision was to alter language concerning requests for extension of time. An extension request last year resulted in much confusion as to the meaning of the phrase "conditions have not changed". In addition, numerous housekeeping changes and simple clarifications were drafted.

The more substantive revisions are summarized as follows:

- 17.70.120, Effective Period, contains the draft revisions to replace the "conditions have not changed" language.
- 17.70.130 and 17.70.210, Modifications, were completely revised to have specific criteria to address when considering elements of the modification. A "modification" is similar to a "minor change" in our Code and the proposed draft language is now consistent with the process for a "minor change". Much of the current text in these Sections describes the notice and hearing process that are outlined in other appropriate Chapters in the Code and not needed here.
- 17.70.140 (A), Graphic Requirements, were altered to provide informative yet more reasonable requirements.

The Planning Commission reviewed this Chapter, suggested a few additional changes, and recommended approval to the City Council.

Following this report is the draft version of Chapter 17.70 (Attachment A).

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.70, Master Plan Development District, BMC

Chapter 17.70 MASTER PLAN DEVELOPMENT (MPD) DISTRICT¹

DRAFT December 4, 2009-12-04

Text to be added is ***bold and italicized***.

Text to be omitted has ~~strikethrough~~.

Sections:

<u>17.70.010</u>	Purpose.
<u>17.70.020</u>	General provisions.
<u>17.70.030</u>	Allowed uses.
<u>17.70.040</u>	Master plan of development (MPoD) review procedures.
<u>17.70.050</u>	Acceptance of application.
<u>17.70.060</u>	Staff evaluation.
<u>17.70.070</u>	Review criteria.
<u>17.70.080</u>	Action by planning commission.
<u>17.70.090</u>	Action by the city council.
<u>17.70.100</u>	Notice of decision.
<u>17.70.110</u>	Effective date and assurance.
<u>17.70.120</u>	Effective period of master plan of development (MPoD) approval.
<u>17.70.130</u>	Modification of a master plan of development (MPoD).
<u>17.70.140</u>	Detailed development plan (DDP) review procedures.
<u>17.70.150</u>	Acceptance of application.
<u>17.70.160</u>	Staff evaluation.
<u>17.70.170</u>	Review criteria for determining compliance with master plan of development (MPoD).
<u>17.70.180</u>	Action by the planning commission.
<u>17.70.190</u>	Effective date.
<u>17.70.200</u>	Effective period of detailed development plan (DDP) approval.
<u>17.70.210</u>	Modification(s) of a detailed development plan (DDP).
<u>17.70.220</u>	Determining compliance.

17.70.010 Purpose.

The ***Master Planned Development*** (MPD) zone is a land use district. The ***MPD*** zone may be applied on sites that are 50 acres or greater in size. The MPD zone shall implement the MP comprehensive plan designation, which shall be placed on all land requiring a "master plan of development" in the ***Urban Growth Joint Management Agreement (UGMA) (JMA)*** adopted by the ***City*** and the ***County***. Upon or subject to annexation into the ***City***, the ***MPD Comprehensive Plan*** designation shall be applied to all land that is required to adopt a "***Master Plan of Development***" (MPoD) in the urban growth boundary. In addition, the city may apply the MPD designation to other lands within the city.

The MPD zone is to be implemented through the approval of a MPoD that describes in detail, as outlined in this chapter, how the development of the property will occur and how the development will implement applicable goals and policies of the City's Comprehensive Plan, and applicable provisions of the Land Development Code. The MPoD will assess and minimize, to an acceptable level, the impacts of the development on the City's services, infrastructure, transportation systems and neighboring properties. As the MPD zone is implemented through an approved MPoD, no development shall be allowed until applicable requirements of this chapter are met. Compliance with applicable plan goals and policies is deferred until the MPoD review.

Master Planned Development review procedures are established in this chapter for the following purposes:

- A. Promote flexibility in design and permit diversification in location of structures;
- B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;
- C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion;
- D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;
- E. Combine and coordinate architectural styles, building forms and building relationships within the planned development;
- F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design moneys, while providing the City with assurances that the project will retain the character envisioned at the time of approval;
- G. Promote and encourage energy conservation; and
- H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project. [Ord. 03-O-446.PP.]

17.70.020 General provisions.

Development within a Master Planned Development (MPD) zone is governed by the approval of a MPoD which can be developed in a single phase or in multiple phases. Prior to development a MPoD must be approved and prior to construction of any phase a Detailed Development Plan (DDP) must be approved. On sites where a MPD designation exists on the City's official zoning map the provisions of this chapter shall apply. The following procedure allows for Planning Commission review of a MPoD and ~~detailed development plan.~~ **DDP.** An application to apply the MPD zone to specific properties may be submitted and reviewed concurrent with MPoD approval. The applicant may either select to process the development proposal under a DDP concurrent with approval of the MPoD or may request only approval of a MPoD in accordance with BMC 17.70.050 and later apply for a DDP for an individual phase or phases of the project. However, prior to issuing any building permits a DDP must be approved by the Planning Commission.

An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries,

which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations. [Ord. 03-O-446.PP.]

17.70.030 Allowed uses.

The following uses are allowed outright when they are included in an approved MPoD.

- A. All uses allowed outright and conditionally in the R-1, R-2, R-3 zones;
- B. All uses allowed outright and conditionally in the C-1, C-2, C-3 and C-4 zones.
- C. All uses allowed outright in the I-P and M-2 districts. [Ord. 03-O-446.PP.]

17.70.040 Master plan of development (MPoD) review procedures.

An application filed for a MPoD shall be reviewed in accordance with the following procedures.

A. Application Requirements. Applications shall be made **by the owner, or authorized representative**, on forms provided by the City. ~~The person filing the application must be the owner or a person having an interest in the land to be included in the MPoD.~~ If the MPoD is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having an interest in each of the separately owned properties to be included.

1. The application shall be accompanied by the following:

a. ~~Three copies of the narrative on eight-and-one-half inch by 11-inch sheets;~~ **A narrative description of the project addressing the items listed in 17.70.040(C);**

b. Four sets of full-scaled black line drawings of the MPoD graphic(s), with sheet size not to exceed 30 inches by 42 inches. Where necessary, an overall plan with additional detail sheets may be submitted; and

c. One set of the graphics shall be reduced to fit on eight-and-one-half inch by 11-inch sheets of paper. Graphics and related names/numbers must be legible on this sheet size.

B. Graphic Requirements. A MPoD shall include the following information where applicable:

~~1. Public notice map including properties within 250 feet of the boundary of the MPoD.~~

1. Existing land use map (typically a topographic map that extends at least 300 feet beyond the site. The map includes existing building footprints and makes a distinction between single-family, multifamily, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);

2. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend – placed in the same location on each sheet and containing the following:

a. Existing site conditions including contours at intervals sufficient to indicate topographic conditions, watercourses, flood plains, and any unique natural features;

b. ~~Slope analysis~~ **A geologic hazard report** for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes **of 15% or greater**, high water table, or other geologic hazard;

c. Boundary of the proposed MPoD and any interior boundaries related to proposed development phases or land divisions;

d. Land use areas identified as dedicated to residential use within the MPoD shall be identified as such and indicating the type of residential use, the number of units within the area and resulting density;

e. General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic uses;

f. Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, ~~service areas, loading areas,~~ and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;

g. Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, and water, **electricity, and other non-municipal utilities**, where appropriate;

h. Sufficient information on land areas within at least 150 feet of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;

i. Location of natural resource, historic and cultural resources as identified on adopted City and County inventories.

4. The City Planner may also require additional information to evaluate the proposal.

C. Narrative Requirements. A written statement shall include the following information:

1. Statement of planning objectives to be achieved by the project. This statement should indicate a description of the character of the proposed development, and a discussion indicating how the application meets the review criteria in BMC 17.70.070.

2. Statement addressing how the project is in compliance with the applicable goals and policies of the comprehensive plan.

3. Quantitative data for the total concept development plan for the following where appropriate:

a. Total number and type of dwelling units;

b. Parcel size;

c. Proposed lot coverage of buildings and structures where known;

d. Gross densities per acre;

e. Approximate allocation and amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas);

f. General type and location of land committed to nonresidential construction uses. The applicant may specify a list of allowable uses within the master plan area which may not include all uses allowed in the underlying zone;

4. General statement of intentions concerning timing, responsibilities, and assurances for all public and nonpublic improvements, such as irrigation, private roads and drives, landscape, and maintenance;

5. Statement describing project phasing, if proposed. Phases shall be:

a. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development;

b. Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and

c. Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the MPoD.

d. Phasing plan including timing for construction and provision of dwelling units, parcel sizes and open space by phase.

6. Traffic impact study consistent with phasing plan. [Ord. 03-O-446.PP.]

17.70.050 Acceptance of application.

A. The City Planner shall review the application in accordance with Chapter ~~17.04 BMC, Development Permit Procedures.~~ **BMC 17.80.050, Site Plan Approval.**

B. After ~~accepting a complete application~~ **an application is deemed complete**, the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter 17.84 BMC, Public Hearings Notice Procedures. [Ord. 03-O-446.PP.]

17.70.060 Staff evaluation.

The City Planner shall prepare a report that evaluates whether the MPoD complies with the review criteria. The report shall also include a recommendation for approval or denial and, ~~if needed~~, a list of conditions for the Planning Commission to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.070 Review criteria.

The Planning Commission shall approve an application for MPoD upon finding that the following approval criteria are met:

A. The proposed MPoD is consistent with the purposes identified in BMC 17.70.010 and the intent of the MPD zone;

~~B. The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the planning commission either at the time of approval of the MPoD or by a modification to the MPoD. If at the end of 10 years the project is not built out, the planning commission shall review the MPoD and~~

~~shall have the ability to require changes to or rescind the plan based on existing conditions;~~

B. If phases (stages) are proposed, the Applicant must submit a timeline to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.120 describes the effective period of approval.)

C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase;

D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site;

E. The applicant demonstrates that all deviations from the development standards are warranted ***and that such alternative standards equally or better meet the purpose of the existing regulations. Best engineering practices for low impact development which preserve existing vegetation, topography, and natural drainage are encouraged;***

F. The circulation plan proposed in the MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic;

G. The proposed MPoD meets the applicable requirements of the ***Urban Growth Boundary Joint Management Agreement***. [Ord. 03-O-446.PP.]

17.70.080 Action by Planning Commission.

The ***Planning Commission*** shall conduct a public hearing in accordance with BMC 17.84.040. Following the close of the hearing the ***Planning Commission*** shall recommend the approval, conditional approval or denial of the MPoD. The recommendation shall be reported to the City Council ~~by filing said recommendation with the city recorder.~~ ***In a Council Agenda Report which includes findings that specify how the application has or has not complied with the above review criteria.*** ~~The commission's recommendation shall include findings that specify how the application has or has not complied with the above review criteria.~~ [Ord. 03-O-446.PP.]

17.70.090 Action by the City Council.

~~A. Upon receipt of said report from the planning commission or upon the expiration of such 90 days as aforesaid, A public hearing is automatically~~ ***will be set for the next regular scheduled before the City Council.*** ~~meeting following the receipt of the report; provided, however, that the Council may, by motion, set the date of such public hearing at such other time or at such other place it desires.~~

B. At the conclusion of the public hearing, the Council may enact an ordinance granting approval of the MPoD, approval of the MPoD with conditions, or may, by motion, deny the granting of the MPoD. [Ord. 03-O-446.PP.]

17.70.100 Notice of decision.

The City Planner shall provide the applicant with a notice of decision **and Final Order** in accordance with Chapter ~~17.04~~ BMC, Development Permit Procedures, and other applicable legal requirements, that includes a written statement of the City Council decision, a reference to findings leading to it, any conditions of approval, and appeal period deadline. A notice of decision shall also be mailed to persons who presented testimony orally or in writing at the public hearing. [Ord. 03-O-446.PP.]

17.70.110 Effective date and assurance.

The decision of the City Council shall become effective 15 days from when the **postmark date on the mailing of the Final Order**. ~~notice of decision is mailed.~~

Approval of the MPoD shall assure the applicant the right to proceed with the development in substantial conformity with the plan and approval of the DDP, subject to such modifications as may be authorized. Changes to zoning ordinances, policies and standards adopted after the date of approval of the plan shall not apply to the development during the duration of the plan. [Ord. 03-O-446.PP.]

17.70.120 Effective period of Master Plan of Development (MPoD) approval.

If the applicant has not submitted a DDP for the planned development or the first phase within four years from the date of approval, the MPoD shall expire. ***The Applicant has the opportunity to apply for an extension of time prior to the expiration of the approval.*** Where the Planning Commission finds that ~~conditions have not changed,~~ ***the circumstances have not changed such that the findings addressing the criteria in BMC 17.70.070, adopted at the time of the approval, would be invalidated by the delay and extension of time for development, the Commission may grant the extension.*** The Commission may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements. If after the approval of the first DDP, ***substantial*** construction has not been started or at any time construction has lapsed for a period of three years, the MPoD will expire. ***Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of any structures or needed infrastructure. BMC 17.70.200 describes the approval period for a DDP and requests for an extension of time.*** [Ord. 03-O-446.PP.]

17.70.130 Modification of a master plan of development (MPoD).

~~An applicant may request modification of an approved MPoD subject to the review criteria set forth above as applicable to the initial approval of the plan and subject to the following review procedures (all modifications within this chapter~~

relating to a change in traffic trip generation shall be based on the most recent edition of the Institute of Transportation Engineers (ITE) manual):

~~A. A modification shall qualify for a minor review if the proposed modification request results in an increase in traffic generation trips equal to or less than 10 percent of the total peak hour trips anticipated in the MPoD, as approved. The city planner shall make the determination as to whether a proposed modification is major or minor. A minor modification may be approved conditionally, approved, or denied by the city planner. If the city planner determines that the proposed minor modification has significant impacts of a magnitude equivalent to those of a major modification, the city planner may refer the matter to the site plan committee to determine if the application should be referred to the planning commission for decision. The following notice and appeal requirements apply to a decision by the city planner to allow, allow conditionally, or deny:~~

~~1. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all of the information required by BMC 17.70.140, modification of a MPoD.~~

~~2. Notice of a Request. Within seven days of receiving the complete application the city planner will mail a notice of the request to all property owners within 250 feet of the lot and to persons on record as interested parties.~~

~~3. Processing Time. A 20 calendar day written comment period shall be provided from the time notice is mailed to provide interested persons with an opportunity to submit written comments about the proposed modification before the city planner makes a decision on the request.~~

~~4. Decision. Upon close of the comment period the city planner shall review all written comments actually received by the department within the comment period and the applicant's response to the comments. The city planner shall then issue a decision. The notice of decision shall be mailed to the applicant and those provided notice.~~

~~5. Appeal. The decision of the city planner shall be final. Within 15 days of the mailing of the notice of decision, an appeal may be made to the planning commission.~~

~~B. A modification shall qualify for a major review if the proposed modification results in an increase in traffic trips greater than 10 percent of the total peak hour trips anticipated in the approved MPoD. In reviewing a major modification request, the commission shall follow the procedures required for a MPoD submittal.~~

~~C. In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change. [Ord. 03-O-446.PP.]~~

A modification to an approved MpoD is required when a proposed DDP does not meet the standards stated in 17.70.170. An Applicant may request a modification of an approved MPoD by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may

request a change to the plot plan/ plat or to the conditions of approval. The request must be accompanied by:

- A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;*
- B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.*
- C. The Applicant must provide findings for the following criteria:*
 - 1. Address how the requested modification relates to the approved project and any impacts that will result.*
 - 2. Address any impacts to adjoining properties.*
 - 3. Address the effect on City services and facilities.*

The Planning Commission will review the proposed modification based on the criteria in 17.70.130 (C).

In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

17.70.140 Detailed Development Plan (DDP) review procedures.

The applicant can request that each phase or a portion of a phase be reviewed in accordance with the DDP review procedures, so long as each detailed development plan is in substantial conformance with the MPoD. ~~A. Application Requirements.~~ An application filed for a DDP shall address the **applicable** requirements specified ~~for a MPoD above~~ **in the approved MpoD for the subject property** and include the following additional information.

~~A. Graphic Requirements. In addition to the graphic requirements specified for a MPoD, a DDP~~ **Must demonstrate the DDP is in substantial conformance with the approved graphic depiction of the MpoD for the subject property and shall include:**

1. Topographic contours at two-foot minimum intervals for slopes under 20 percent and at five-foot minimum intervals for slopes at or greater than 20 percent. Where the grade exceeds 15 percent ~~or where the development site abuts existing developed lots, a grading plan shall be required. If a grading plan is required, it shall conform to~~ **compliance with** the standards established in Chapter 17.100 BMC, **must be met.** ~~unless alternative standards are proposed at the time of the DDP approval;~~

2. For all buildings except single-family and duplex homes, the location of existing and proposed structures and other improvements, including maximum heights, building types, and gross density per acre (for residential developments) and location of fire hydrants, existing overhead lines in the abutting right-of-way, easements and walkways;

3. Typical elevations of buildings and structures (which may be submitted on additional sheets) sufficient to indicate the architectural intent and character of the proposed development for all buildings except single-family and duplex residential;

4. Landscape plan drawn to scale showing location of ~~existing trees and other significant vegetation proposed to be removed from or to be retained within the area of the site to be developed, location and design of landscaped areas, varieties and sizes of trees and plant materials to be planted,~~ **landscaped areas** and other landscape features including walls and fences, and irrigation systems proposed to maintain plant materials. **A list of trees and other plant materials to be used shall be provided. 40% of new trees and plants must be drought-resistant. Retention of existing mature trees and other vegetation is encouraged. The landscape plan must be in compliance with applicable section of BMC 17.94, Landscaping, and BMC 17.92.100, Off-street Parking Areas. Identification of trees shall be in compliance with BMC 17.172.060(B)(16)*;**

5. Utilities plan indicating how sanitary sewer, storm sewer, drainage, and water systems will function and how negative impacts to existing sanitary sewers, storm sewers, drainage and water systems of adjacent properties will be avoided;

6. Circulation plan showing street, driveway, parking area, service area, loading area, pedestrian way, and bikeway improvements and their dimensions;

7. Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic areas;

8. Exterior lighting plan indicating the location, size, height, typical design, material, color, and method and direction of illumination. **Lighting on streets proposed to be dedicated to the City must comply with standards found in the Public Works document, "General Engineering Requirements and Standard Specifications";**

~~9. Types and locations of trees to be preserved or planted.~~

B. Narrative Requirements. In addition to the ~~narrative requirements specified for a MPoD above,~~ **addressing the applicable conditions of approval in the Final Order of the approved MpoD for the subject property,** the DDP shall include:

1. Proposals for setbacks or approximate building envelopes, lot areas where a concurrent land division is proposed and number of parking spaces to be provided (in ratio to gross floor area or number of units);

2. Updated statement outlining timing, responsibilities, and assurances for all public and nonpublic improvements such as irrigation, private roads and drives, landscape, and maintenance; identify any changes since approval of MPoD;

3. Statement addressing compatibility of proposed development to adjacent land uses relating to such items as architectural character, building type, and height of proposed structures;

4. Statement demonstrating consistency with adopted traffic impact study and the transportation plan.

C. Tentative Plat. If a MPoD is to be partitioned or subdivided, a tentative plan or plat shall also be submitted as part of a MPoD or DDP submittal in accordance with Chapter 17.172 BMC, Land Divisions, to permit simultaneous review. [Ord. 03-O-446.PP.]

* Code reviser's note: BMC ~~17.172.060(B)(16)~~ was removed as part of the amendments of Ordinance 07-O-587. Contact the city for clarification concerning the identification of trees.

17.70.150 Acceptance of application.

A. The City Planner shall review the application in accordance with Chapter ~~17.04~~ BMC **17.80.050**, Development Permit Procedures. **Site Plan Approval.**

B. After ~~accepting a complete application~~ **an application is deemed complete**, the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter ~~17.04~~ **17.84** BMC, Development Permit Procedures. **Public Hearing Notice Proceedings.** [Ord. 03-O-446.PP.]

17.70.160 Staff evaluation.

The City Planner shall prepare a report that evaluates whether the DDP complies with the review criteria in BMC 17.70.170. The report should include a recommendation for approval or denial and, if needed, a list of conditions for the Planning Commission to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.170 Review criteria for determining compliance with master plan of development (MpoD).

A. Request for approval of a DDP shall be reviewed to determine whether it is in substantial conformance with the MpoD. The DDP shall be deemed to not be in substantial conformance with the MpoD if it results in any of the following types of changes from the MpoD:

1. Increase in development density and/or intensity that results in a peak hour trip generation of greater than 10 percent of the total approved in the MpoD;

~~2. Increase in the floor area proposed for nonresidential use by more than 10 percent from what was previously specified;~~

2. Reduction of more than 10 percent of the area reserved for common open space and/or usable open space from what was previously specified;

~~4. Increase in the total ground area proposed to be covered by structures by more than five percent from what was previously specified;~~

3. Reduction of specific setback requirements by more than ~~25~~ **10** percent where previously specified; and

4 Reduction of project amenities provided such as recreational facilities;
5.Reduction of screening, and/or landscaping provisions by more than 10 percent from what was previously specified; **and**

6. If subdivision or partition, the application does not meet the applicable requirements of Chapter 17.172 BMC.

This list is not all inclusive. The DDP must generally be in substantial conformance with the MPoD.

B. All deviations within the limits set by the criteria in subsection (A) of this section from those of the approved MPoD shall be justified and explained either in the required graphic or narrative materials. [Ord. 03-O-446.PP.]

C. If phases (stages) are proposed, the applicant must submit a timeline, to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.200 describes the effective period of approval.)

17.70.180 Action by the Planning Commission.

The Planning Commission may approve, conditionally approve, or deny the DDP. The Planning Commission's decision shall include findings that specify how the DDP is or is not in substantial conformance with the MPoD. [Ord. 03-O-446.PP.]

17.70.190 Effective date.

The decision of the planning commission shall become effective 15 days from ***the postmark date on the mailing of the Final Order*** ~~when the notice of decision is mailed~~ unless an appeal is filed. [Ord. 03-O-446.PP.]

17.70.200 Effective period of detailed development plan (DDP) approval.

A. Approval of a DDP shall be valid for a three-year period from the date of initial approval. If the applicant has not begun construction within this time frame, the approval shall expire. At its discretion and without a public hearing, the Commission may extend the approval ~~one time~~ for a period not to exceed two additional years per extension.

B. If the Planning Commission may permit has approved implementation of the DDP in phases, the approved timeline will apply. At its discretion and without a public hearing, the Commission may extend the approval for a period not to exceed two additional years per extension. [Ord. 03-O-446.PP.]

17.70.210 Modification(s) of a detailed development plan (DDP).

~~This section identifies the processes by which an approved DDP may be modified. Such modifications are necessary to the extent that final building and construction plans are not in substantial compliance with the adopted DDP. In general, such plans may be modified in two ways, depending upon the degree of modification proposed. These include:~~

~~A. Changes that modify the approved plan but do not increase traffic trips by more than 10 percent of traffic trips generated by the development approved in the MPoD may be approved, approved with conditions, or denied by the city planner pursuant to applicable public notice and hearing opportunity requirements. If the proposed changes do not increase traffic trips by more than 10 percent but the changes have significant impacts of a magnitude equivalent to~~

~~a 10 percent traffic increase, the city planner may refer the matter to the site plan committee to determine if the application should be referred to the planning commission for decision.~~

~~B. Those changes which cause an increase in the traffic trips greater than 10 percent of those generated by the development approved in the MPoD may be approved, approved with conditions or denied by the planning commission in accordance with BMC 17.70.080.~~

A modification to an approved DDP is required when final building and/or construction plans are not in substantial conformance with the adopted DDP. An Applicant may request a modification of an approved DDP by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or the conditions of approval. The request must be accompanied by:

A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;

B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.

C. The Applicant must provide findings for the following criteria:
1. Address how the requested modification relates to the approved project and any impacts that will result.
2. Address any impacts to adjoining properties.
3. Address the effect on City services and facilities.

The Planning Commission will review the proposed modification based on the criteria in 17.70.210 (C).

In a modification, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change. [Ord. 03-O-446.PP.]

17.70.220 Determining compliance.

A building permit or other site development permit request shall be in substantial compliance with the DDP and all modifications. [Ord. 03-O-446.PP.]

1

Prior legislation: Ord. 03-O-557 § 1.

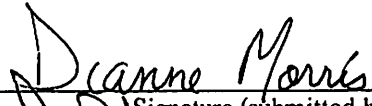
TOC < >

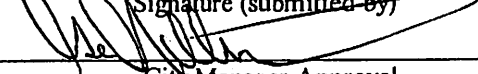
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 11, 2010

Originating Dept: Planning



Signature (submitted by)


City Manager Approval

Subject: Adopting ordinance for approval to revise Chapter 17.70, Master Plan Development District, Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 10-O- 652.

Financial Impact: None

Background/Discussion: Revisions to this Chapter were approved by the City Council at their January 11, 2010 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 10-O-652.

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

ORDINANCE NO. 10-O-652

IN THE MATTER OF ORDINANCE NO. 10-O-652, AN ORDINANCE AMENDING CHAPTER 17.70, MASTER PLAN DEVELOPMENT DISTRICT, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.70, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.70, Master Plan Development, Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Amend Chapter 17.70. Chapter 17.70, Master Plan Development, is amended to read as follows:

**Chapter 17.70
MASTER PLAN DEVELOPMENT (MPD) DISTRICT¹**

Sections:

- 17.70.010 Purpose.
- 17.70.020 General provisions.
- 17.70.030 Allowed uses.
- 17.70.040 Master plan of development (MPoD) review procedures.
- 17.70.050 Acceptance of application.
- 17.70.060 Staff evaluation.
- 17.70.070 Review criteria.
- 17.70.080 Action by planning commission.
- 17.70.090 Action by the city council.
- 17.70.100 Notice of decision.
- 17.70.110 Effective date and assurance.
- 17.70.120 Effective period of master plan of development (MPoD) approval.
- 17.70.130 Modification of a master plan of development (MPoD).
- 17.70.140 Detailed development plan (DDP) review procedures.

<u>17.70.150</u>	Acceptance of application.
<u>17.70.160</u>	Staff evaluation.
<u>17.70.170</u>	Review criteria for determining compliance with master plan of development (MPoD).
<u>17.70.180</u>	Action by the planning commission.
<u>17.70.190</u>	Effective date.
<u>17.70.200</u>	Effective period of detailed development plan (DDP) approval.
<u>17.70.210</u>	Modification(s) of a detailed development plan (DDP).
<u>17.70.220</u>	Determining compliance.

17.70.010 Purpose.

The Master Planned Development (MPD) zone is a land use district. The MPD zone may be applied on sites that are 50 acres or greater in size. The MPD zone shall implement the MP comprehensive plan designation, which shall be placed on all land requiring a "master plan of development" in the Urban Growth Joint Management Agreement (JMA) adopted by the City and the County. Upon or subject to annexation into the City, the MPD Comprehensive Plan designation shall be applied to all land that is required to adopt a "Master Plan of Development" (MPoD) in the urban growth boundary. In addition, the city may apply the MPD designation to other lands within the city.

The MPD zone is to be implemented through the approval of a MPoD that describes in detail, as outlined in this chapter, how the development of the property will occur and how the development will implement applicable goals and policies of the City's Comprehensive Plan, and applicable provisions of the Land Development Code. The MPoD will assess and minimize, to an acceptable level, the impacts of the development on the City's services, infrastructure, transportation systems and neighboring properties. As the MPD zone is implemented through an approved MPoD, no development shall be allowed until applicable requirements of this chapter are met. Compliance with applicable plan goals and policies is deferred until the MPoD review.

Master Planned Development review procedures are established in this chapter for the following purposes:

A. Promote flexibility in design and permit diversification in location of structures;

B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;

C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion;

D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;

E. Combine and coordinate architectural styles, building forms and building relationships within the planned development;

F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design moneys, while providing the City with assurances that the project will retain the character envisioned at the time of approval;

G. Promote and encourage energy conservation; and

H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project. [Ord. 03-O-446.PP.]

17.70.020 General provisions.

Development within a Master Planned Development (MPD) zone is governed by the approval of a MPoD which can be developed in a single phase or in multiple phases. Prior to development a MPoD must be approved and prior to construction of any phase a Detailed Development Plan (DDP) must be approved. On sites where a MPD designation exists on the City's official zoning map the provisions of this chapter shall apply. The following procedure allows for Planning Commission review of a MPoD and DDP. An application to apply the MPD zone to specific properties may be submitted and reviewed concurrent with MPoD approval. The applicant may either select to process the development proposal under a DDP concurrent with approval of the MPoD or may request only approval of a MPoD in accordance with BMC 17.70.050 and later apply for a DDP for an individual phase or phases of the project. However, prior to issuing any building permits a DDP must be approved by the Planning Commission.

An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations. [Ord. 03-O-446.PP.]

17.70.030 Allowed uses.

The following uses are allowed outright when they are included in an approved MPoD.

A. All uses allowed outright and conditionally in the R-1, R-2, R-3 zones;

B. All uses allowed outright and conditionally in the C-1, C-2, C-3 and C-4 zones.

C. All uses allowed outright in the I-P and M-2 districts. [Ord. 03-O-446.PP.]

17.70.040 Master plan of development (MPoD) review procedures.

An application filed for a MPoD shall be reviewed in accordance with the following procedures.

A. Application Requirements. Applications shall be made by the owner, or authorized representative, on forms provided by the City. If the MPoD is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having an interest in each of the separately owned properties to be included.

1. The application shall be accompanied by the following:

a. Narrative description of the project addressing the items listed in 17.70.040(C);

b. Four sets of full-scaled black line drawings of the MPoD graphic(s), with sheet size not to exceed 30 inches by 42 inches. Where necessary, an overall plan with additional detail sheets may be submitted; and

c. One set of the graphics shall be reduced to fit on eight-and-one-half inch by 11-inch sheets of paper. Graphics and related names/numbers must be legible on this sheet size.

B. Graphic Requirements. A MPoD shall include the following information where applicable:

1. Existing land use map (typically a topographic map that extends at least 300 feet beyond the site. The map includes existing building footprints and makes a distinction between single-family, multifamily, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);

2. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend – placed in the same location on each sheet and containing the following:

a. Existing site conditions including contours at intervals sufficient to indicate topographic conditions, watercourses, flood plains, and any unique natural features;

b. A geologic hazard report for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes of 15% or greater, high water table, or other geologic hazard;

c. Boundary of the proposed MPoD and any interior boundaries related to proposed development phases or land divisions;

d. Land use areas identified as dedicated to residential use within the MPoD shall be identified as such and indicating the type of residential use, the number of units within the area and resulting density;

e. General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic uses;

f. Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;

g. Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, water, electricity, and other non-municipal utilities, where appropriate;

h. Sufficient information on land areas within at least 150 feet of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;

i. Location of natural resource, historic and cultural resources as identified on adopted City and County inventories.

3. The City Planner may also require additional information to evaluate the proposal.

C. Narrative Requirements. A written statement shall include the following information:

1. Statement of planning objectives to be achieved by the project. This statement should indicate a description of the character of the proposed development, and a discussion indicating how the application meets the review criteria in BMC 17.70.070.

2. Statement addressing how the project is in compliance with the applicable goals and policies of the comprehensive plan.

3. Quantitative data for the total concept development plan for the following where appropriate:

- a. Total number and type of dwelling units;
- b. Parcel size;
- c. Proposed lot coverage of buildings and structures where known;
- d. Gross densities per acre;
- e. Approximate allocation and amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas);

f. General type and location of land committed to nonresidential uses. The applicant may specify a list of allowable uses within the master plan area which may not include all uses allowed in the underlying zone;

4. General statement of intentions concerning timing, responsibilities, and assurances for all public and nonpublic improvements, such as irrigation, private roads and drives, landscape, and maintenance;

5. Statement describing project phasing, if proposed. Phases shall be:

a. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development;

b. Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and

c. Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the MPoD.

d. Phasing plan including timing for construction and provision of dwelling units, parcel sizes and open space by phase.

6. Traffic impact study consistent with phasing plan. [Ord. 03-O-446.PP.]

17.70.050 Acceptance of application.

A. The City Planner shall review the application in accordance with BMC 17.80.050, Site Plan Approval.

B. After an application is deemed complete, the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter 17.84 BMC, Public Hearings Notice Procedures. [Ord. 03-O-446.PP.]

17.70.060 Staff evaluation.

The City Planner shall prepare a report that evaluates whether the MPoD complies with the review criteria. The report shall also include a recommendation for approval or denial and a list of conditions for the Planning Commission to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.070 Review criteria.

The Planning Commission shall approve an application for MPoD upon finding that the following approval criteria are met:

A. The proposed MPoD is consistent with the purposes identified in BMC 17.70.010 and the intent of the MPD zone;

B. If phases (stages) are proposed, the Applicant must submit a timeline to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.120 describes the effective period of approval.)

C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase;

D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site;

E. The applicant demonstrates that all deviations from the development standards are warranted and that such alternative standards equally or better meet the purpose of the existing regulations. Best engineering practices for low impact development which preserve existing vegetation, topography, and natural drainage are encouraged;

F. The circulation plan proposed in the MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic;

G. The proposed MPoD meets the applicable requirements of the Urban Growth Boundary Joint Management Agreement. [Ord. 03-O-446.PP.]

17.70.080 Action by Planning Commission.

The Planning Commission shall conduct a public hearing in accordance with BMC 17.84.040. Following the close of the hearing the Planning Commission shall recommend the approval, conditional approval or denial of the MPoD. The recommendation shall be reported to the City Council in a Council Agenda Report, which includes findings that specify how the application has or has not complied with the above review criteria. [Ord. 03-O-446.PP.]

17.70.090 Action by the City Council.

A. A public hearing will be scheduled before the City Council.

B. At the conclusion of the public hearing, the Council may grant approval of the MPoD, approval of the MPoD with conditions, or may, by motion, deny the granting of the MPoD. [Ord. 03-O-446.PP.]

17.70.100 Notice of decision.

The City Planner shall provide the applicant with a notice of decision and Final Order in accordance with applicable legal requirements, that includes a written statement of the City Council decision, a reference to findings leading to it, any conditions of approval, and appeal period deadline. A notice of decision shall also be mailed to persons who presented testimony orally or in writing at the public hearing. [Ord. 03-O-446.PP.]

17.70.110 Effective date and assurance.

The decision of the City Council shall become effective 15 days from the postmark date on the mailing of the Final Order.

Approval of the MPoD shall assure the applicant the right to proceed with the development in substantial conformity with the plan and approval of the DDP, subject to such modifications as may be authorized. Changes to zoning ordinances, policies and standards adopted after the date of approval of the plan shall not apply to the development during the duration of the plan. [Ord. 03-O-446.PP.]

17.70.120 Effective period of Master Plan of Development (MPoD) approval.

If the applicant has not submitted a DDP for the planned development or the first phase within four years from the date of approval, the MPoD shall expire. The Applicant has the opportunity to apply for an extension of time prior to the expiration of the approval. Where the Planning Commission finds that the circumstances have not changed such that the findings addressing the criteria in BMC 17.70.070, adopted at the time of the approval, would be invalidated by the delay and extension of time for development, the Commission may grant the extension. The Commission may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements.

If after the approval of the first DDP, substantial construction has not been started or at any time construction has lapsed for a period of three years, the MPoD will expire. Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of any structures or needed infrastructure. BMC 17.70.200 describes the approval period for a DDP and requests for an extension of time. [Ord. 03-O-446.PP.]

17.70.130 Modification of a master plan of development (MPoD).

A modification to an approved MpoD is required when a proposed DDP does not meet the standards stated in 17.70.170. An Applicant may request a modification of an approved MPoD by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or to the conditions of approval. The request must be accompanied by:

- A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;
- B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.
- C. The Applicant must provide findings for the following criteria:
 - 1. Address how the requested modification relates to the approved project and any impacts that will result.
 - 2. Address any impacts to adjoining properties.
 - 3. Address the effect on City services and facilities.

The Planning Commission will review the proposed modification based on the criteria in 17.70.130 (C).

In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

17.70.140 Detailed Development Plan (DDP) review procedures.

The applicant can request that each phase or a portion of a phase be reviewed in accordance with the DDP review procedures, so long as each detailed development plan is in substantial conformance with the MPoD. An application filed for a DDP shall address the applicable requirements specified in the approved MpoD for the subject property and include the following additional information.

A. Graphic Requirements. Must demonstrate the DDP is in substantial conformance with the approved graphic depiction of the MpoD for the subject property and shall include:

- 1. Topographic contours at two-foot minimum intervals for slopes under 20 percent and at five-foot minimum intervals for slopes at or greater than 20

percent. Where the grade exceeds 15 percent compliance with the standards established in Chapter 17.100 BMC, must be met;

2. For all buildings except single-family and duplex homes, the location of existing and proposed structures and other improvements, including maximum heights, building types, and gross density per acre (for residential developments) and location of fire hydrants, existing overhead lines in the abutting right-of-way, easements and walkways;

3. Typical elevations of buildings and structures (which may be submitted on additional sheets) sufficient to indicate the architectural intent and character of the proposed development for all buildings except single-family and duplex residential;

4. Landscape plan drawn to scale showing location of landscaped areas and other landscape features including walls and fences, and irrigation systems proposed to maintain plant materials. A list of trees and other plant materials to be used shall be provided. 40% of new trees and plants must be drought-resistant. Retention of existing mature trees and other vegetation is encouraged. The landscape plan must be in compliance with applicable section of BMC 17.94, Landscaping, and BMC 17.92.100, Off-street Parking Areas.

5. Utilities plan indicating how sanitary sewer, storm sewer, drainage, and water systems will function and how negative impacts to existing sanitary sewers, storm sewers, drainage and water systems of adjacent properties will be avoided;

6. Circulation plan showing street, driveway, parking area, service area, loading area, pedestrian way, and bikeway improvements and their dimensions;

7. Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic areas;

8. Exterior lighting plan indicating the location and direction of illumination. Lighting on streets proposed to be dedicated to the City must comply with standards found in the Public Works document, "General Engineering Requirements and Standard Specifications" ;

B. Narrative Requirements. In addition to addressing the applicable conditions of approval in the Final Order of the approved MpoD for the subject property, the DDP shall include:

1. Proposals for setbacks or approximate building envelopes, lot areas where a concurrent land division is proposed and number of parking spaces to be provided (in ratio to gross floor area or number of units);

2. Updated statement outlining timing, responsibilities, and assurances for all public and nonpublic improvements such as irrigation, private roads and drives, landscape, and maintenance; identify any changes since approval of MPoD;

3. Statement addressing compatibility of proposed development to adjacent land uses relating to such items as architectural character, building type, and height of proposed structures;

4. Statement demonstrating consistency with adopted traffic impact study and the transportation plan.

C. Tentative Plat. If a MPoD is to be partitioned or subdivided, a tentative plan or plat shall also be submitted as part of a MPoD or DDP submittal in accordance with Chapter 17.172 BMC, Land Divisions, to permit simultaneous review. [Ord. 03-O-446.PP.]

17.70.150 Acceptance of application.

A. The City Planner shall review the application in accordance with BMC 17.80.050, Site Plan Approval.

B. After an application is deemed complete, the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter 17.84 BMC, Public Hearing Notice Proceedings. [Ord. 03-O-446.PP.]

17.70.160 Staff evaluation.

The City Planner shall prepare a report that evaluates whether the DDP complies with the review criteria in BMC 17.70.170. The report should include a recommendation for approval or denial and a list of conditions for the Planning Commission to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.170 Review criteria for determining compliance with master plan of development (MpoD).

A. Request for approval of a DDP shall be reviewed to determine whether it is in substantial conformance with the MpoD. The DDP shall be deemed to not be in substantial conformance with the MpoD if it results in any of the following types of changes from the MpoD:

1. Increase in development density and/or intensity that results in a peak hour trip generation of greater than 10 percent of the total approved in the MpoD;
2. Reduction of more than 10 percent of the area reserved for common open space and/or usable open space from what was previously specified;
3. Reduction of specific setback requirements by more than 10 percent where previously specified;
- 4 Reduction of project amenities provided such as recreational facilities;
- 5.Reduction of screening, and/or landscaping provisions by more than 10 percent from what was previously specified; and
6. If subdivision or partition, the application does not meet the applicable requirements of Chapter 17.172 BMC.

This list is not all inclusive. The DDP must generally be in substantial conformance with the MpoD.

B. All deviations within the limits set by the criteria in subsection (A) of this section from those of the approved MPoD shall be justified and explained either in the required graphic or narrative materials. [Ord. 03-O-446.PP.]

C. If phases (stages) are proposed, the applicant must submit a timeline, to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.200 describes the effective period of approval.)

17.70.180 Action by the Planning Commission.

The Planning Commission may approve, conditionally approve, or deny the DDP. The Planning Commission's decision shall include findings that specify how the DDP is or is not in substantial conformance with the MPoD. [Ord. 03-O-446.PP.]

17.70.190 Effective date.

The decision of the planning commission shall become effective 15 days from the postmark date on the mailing of the Final Order unless an appeal is filed. [Ord. 03-O-446.PP.]

17.70.200 Effective period of detailed development plan (DDP) approval.

A. Approval of a DDP shall be valid for a three-year period from the date of initial approval. If the applicant has not begun construction within this time frame, the approval shall expire. At its discretion and without a public hearing, the Commission may extend the approval for a period not to exceed two additional years per extension.

B. If the Planning Commission has approved implementation of the DDP in phases, the approved timeline will apply. At its discretion and without a public hearing, the Commission may extend the approval for a period not to exceed two additional years per extension. [Ord. 03-O-446.PP.]

17.70.210 Modification(s) of a detailed development plan (DDP).

A modification to an approved DDP is required when final building and/or construction plans are not in substantial conformance with the adopted DDP. An Applicant may request a modification of an approved DDP by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or the conditions of approval. The request must be accompanied by:

- A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;
- B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.
- C. The Applicant must provide findings for the following criteria:
 - 1. Address how the requested modification relates to the approved project and any impacts that will result.
 - 2. Address any impacts to adjoining properties.
 - 3. Address the effect on City services and facilities.

The Planning Commission will review the proposed modification based on the criteria in 17.70.210 (C).

In a modification, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change. [Ord. 03-O-446.PP.]

17.70.220 Determining compliance.

A building permit or other site development permit request shall be in substantial compliance with the DDP and all modifications. [Ord. 03-O-446.PP.]

First reading: _____

Second reading: _____

Passage: _____

Effective date _____

Signed by me in authentication of its passage this _____ day of _____, 2010.

Mayor Larry Anderson

ATTEST:

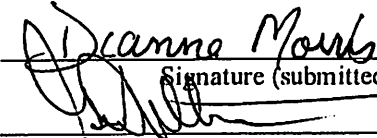
City Recorder Joyce Heffington

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 11, 2010

Originating Dept: Planning


Signature (submitted by)

City Manager Approval

Subject: A hearing on File LDC-16-09 for consideration and possible adoption of revisions to Chapter 17.56, Tourist Commercial (C-4), Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.56, Tourist Commercial, BMC, as recommended by the Planning Commission.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee reviewed Chapter 17.56, Tourist Commercial. Most of the revisions were to insert additional conditional uses, put items in more appropriate Sections, and clarify language.

Specific revisions are:

- 17.56.030, Accessory uses. Accessory uses for dwellings were added to be consistent with residential uses in other commercial zones.
- 17.56.040, Conditional uses. (G) and (I) were added as appropriate for this zone.
- 17.56.080, Other required conditions. (D), (E), and (G) were moved from other sections of the code to be more easily found here. (H) was added to address concerns raised by citizens regarding the appearance of commercial dumpsters. This provision was also added to the previous commercial zone revisions.

The Planning Commission reviewed this Chapter and recommended approval to the City Council with the addition of 17.56.080(F), Other required conditions, which gives parameters for outside displays and sales and makes this activity consistent with other commercial zones. They also corrected a citation and added a citation in 17.56.050, Maximum building height.

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.56, Tourist Commercial (C-4), BMC.

Chapter 17.56

TOURIST COMMERCIAL (C-4) DISTRICT

Planning Commission revisions of 12-01-09

Text to be added is ***bold and italicized***.

Text to be omitted has ~~striketrough~~.

Sections:

<u>17.56.010</u>	Purpose.
<u>17.56.020</u>	Permitted uses.
<u>17.56.030</u>	Accessory uses.
<u>17.56.040</u>	Conditional uses.
<u>17.56.050</u>	Maximum building height.
<u>17.56.060</u>	Signs.
<u>17.56.070</u>	Parking.
<u>17.56.080</u>	Other required conditions.

17.56.010 Purpose.

This district is intended to make provision for tourist commercial uses which serve the traveling public and which are appropriate to major thoroughfare or highway locations. The appearance of developments in this district will have a significant visual impact on the traveling public concerning community values and these regulations are intended to protect and enhance the appearance of these vital areas of the community to the benefit and success of the entire community as a major tourist center. [Ord. 89-O-446 § 1.]

17.56.020 Permitted uses.

The following uses are permitted:

A. Existing residential uses, ***including additions***, without any increase in density ***the number of dwelling units***;

B. One or more dwellings not on a ground floor;

C. Automobile car wash;

D. Automobile service station, including automobile maintenance and repair which shall be conducted entirely within an enclosed building; ~~provided, that no major repair, overhaul or reconstruction shall be permitted;~~

E. Commercial recreational uses such as bowling lanes, theaters, dance halls, pool halls, skating rinks; ~~not including race tracks or auto speedways;~~

F. Gift or souvenir shops;

G. Motels, hotels and convention centers;

H. Restaurants, cafes, cocktail lounges, ***bars***, taverns and ~~night clubs~~ ***with or without entertainment***;

I. Barber and beauty shops;

J. Bus station, taxi stand;

K. Places for public assembly such as community centers, clubs, lodges, fraternal organizations and auditoriums;

L. Drug stores;

M. Laundromats;

N. Museums, art galleries, or similar facilities;

O. Professional or business offices;

P. Commercial off-street parking lots or structures subject to the provisions of Chapter 17.92 BMC;

Q. Banks ~~savings and loan institutions~~, and financial institutions;

R. Marinas or launching facilities;

S. Piers, docks and bulkheads;

T. Boat storage, maintenance and service;

U. Aquaculture and accessory facilities. [Ord. 03-O-446.OO; Ord. 89-O-446 § 1.]

17.56.030 Accessory uses.

A. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities and the like, are permitted. [Ord. 89-O-446 § 1.]

B. Accessory uses for dwelling units

1. *Home occupations, subject to the provisions of Chapter 17.104 BMC.*

2. *Other accessory uses and accessory buildings and structures, such as non-commercial greenhouses, customarily appurtenant to a permitted use.*

17.56.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

A. Recreational vehicle park ***subject to 17.124.150;***

B. Convenience market, limited to 1,000 square feet of retail area;

C. Golf driving range, golf course, miniature golf course and ~~drive-in theater;~~

D. Public buildings and public utility buildings, structures and uses;

E. Rental storage units, provided they are used exclusively for storage purposes;

F. Buildings over 40 feet in height; [Ord. 00-O-446.II § 3; Ord. 89-O-446 § 1.]

G. Utility substations or pumping stations subject to BMC 17.124.030;

H. Drive-in theater subject to BMC 17.124.130;

I. Short-term rentals pursuant to the provisions of BMC 17.124.170.

17.56.050 Maximum building height.

No structures shall be over 40 feet in height except as provided in BMC 17.128.0230 and ***BMC 17.56.040(F).*** [Ord. 89-O-446 § 1.]

17.56.060 Signs.

Signs shall be permitted in accordance with Chapter 17.88 BMC. [Ord. 89-O-446 § 1.]

17.56.070 Parking.

Off-street parking shall be provided in accordance with Chapter 17.92 BMC. [Ord. 89-O-446 § 1.]

17.56.080 Other required conditions.

A. Site plan approval required as provided in Chapter 17.80 BMC.

B. In any C-4 district directly across a street from, or abutting any lot in an Residential district, the parking and loading area shall be set back at least 10 feet from the street

~~right-of-way or property line and said area shall be appropriately landscaped to protect the character of said adjacent residential properties. Such landscaping shall be maintained~~ ***in compliance with 17.92.100 (H).***

C. All businesses shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Ord. 00-O-446.JJ § 6; Ord. 89-O-446 § 1.]

D. Prior to any development activity on the property, the applicant must comply with 17.100.030, General Mitigation, BMC.

E. An accessway to a new proposed off-street parking area shall be improved from the public roadway to the parking area to a minimum width of 20 feet for two-way traffic. If the accessway is a one-way in or one-way out, it shall be a minimum width of 10 feet and have appropriate signage.

F. All businesses and serviced shall be conducted entirely within a completely enclosed structure, except for condition uses, outdoor dining area, seasonal sales lots, outdoor equipment, outdoor furniture, dispensers, boat storage and maintenance/service, and bus stations. In addition, temporary sales of products allowed either as an outright permitted or a conditionally permitted use, for not more than seven consecutive days, may be conducted outside on private property. These sales may occur no more than four times during a calendar year. The seller must have a current business license and required parking spaces must remain available for use by vehicles.

G. Screen from view all roof-, wall-, or ground-mounted mechanical equipment and devices, in addition to propane tanks.

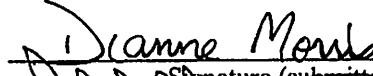
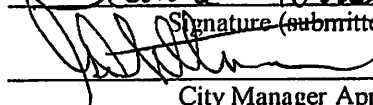
H. Refuse receptacles or dumpsters shall be appropriately positioned, colored or screened to minimize visibility to vehicular traffic or pedestrians.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 11, 2010

Originating Dept: Planning


Signature (submitted by)

City Manager Approval

Subject: Adopting ordinance for approved revisions to Chapter 17.56, Tourist Commercial (C-4) District of the Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 10-O-651, revisions to Chapter 17.56, Tourist Commercial (C-4) District, BMC.

Financial Impact: None

Background/Discussion: The revisions to Chapter 17.56, Tourist Commercial (C-4) District, were approved by the City Council at their January 11, 2010 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 10-O-651.

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

ORDINANCE NO. 10-O-651

IN THE MATTER OF ORDINANCE NO. 10-O-651, AN ORDINANCE AMENDING CHAPTER 17.56, TOURIST COMMERCIAL (C-4) DISTRICT, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN IT'S ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.56, in it's entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.56 Tourist Commercial (C-4) District, Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Amend Chapter 17.56. Chapter 17.56, Tourist Commercial (C-4) District is amended to read as follows:

**Chapter 17.56
TOURIST COMMERCIAL (C-4) DISTRICT**

Sections:

- 17.56.010 Purpose.
- 17.56.020 Permitted uses.
- 17.56.030 Accessory uses.
- 17.56.040 Conditional uses.
- 17.56.050 Maximum building height.
- 17.56.060 Signs.
- 17.56.070 Parking.
- 17.56.080 Other required conditions.

17.56.010 Purpose.

This district is intended to make provision for tourist commercial uses which serve the traveling public and which are appropriate to major thoroughfare or highway locations. The appearance of developments in this district will have a significant visual impact on the traveling public concerning community values and these regulations are intended to protect and enhance the appearance of these vital areas of the community to the benefit and success of the entire community as a major tourist center. [Ord. 89-O-446 § 1.]

17.56.020 Permitted uses.

The following uses are permitted:

- A. Existing residential uses, including additions, without any increase in the number of dwelling units;

- B. One or more dwellings not on a ground floor;
- C. Automobile car wash;
- D. Automobile service station, including automobile maintenance and repair which shall be conducted entirely within an enclosed building;
- E. Commercial recreational uses such as bowling lanes, theaters, dance halls, pool halls, skating rinks;
- F. Gift or souvenir shops;
- G. Motels, hotels and convention centers;
- H. Restaurants, cafes, cocktail lounges, bars, taverns with or without entertainment;
- I. Barber and beauty shops;
- J. Bus station, taxi stand;
- K. Places for public assembly such as community centers, clubs, lodges, fraternal organizations and auditoriums;
- L. Drug stores;
- M. Laundromats;
- N. Museums, art galleries, or similar facilities;
- O. Professional or business offices;
- P. Commercial off-street parking lots or structures subject to the provisions of Chapter 17.92 BMC;
- Q. Banks and financial institutions;
- R. Marinas or launching facilities;
- S. Piers, docks and bulkheads;
- T. Boat storage, maintenance and service;
- U. Aquaculture and accessory facilities. [Ord. 03-O-446.OO; Ord. 89-O-446 § 1.]

17.56.030 Accessory uses.

- A. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities and the like, are permitted. [Ord. 89-O-446 § 1.]
- B. Accessory uses for dwelling units
 - 1. Home occupations, subject to the provisions of Chapter 17.104 BMC.
 - 2. Other accessory uses and accessory buildings and structures, such as non-commercial greenhouses, customarily appurtenant to a permitted use.

17.56.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

- A. Recreational vehicle park subject to 17.124.150;
- B. Convenience market, limited to 1,000 square feet of retail area;
- C. Golf driving range, golf course, miniature golf course;
- D. Public buildings and public utility buildings, structures and uses;
- E. Rental storage units, provided they are used exclusively for storage purposes;
- F. Buildings over 40 feet in height; [Ord. 00-O-446.II § 3; Ord. 89-O-446 § 1.]
- G. Utility substations or pumping stations subject to BMC 17.124.030;
- H. Drive-in theater subject to BMC 17.124.130;
- I. Short-term rentals pursuant to the provisions of BMC 17.124.170.

17.56.050 Maximum building height.

No structures shall be over 40 feet in height except as provided in BMC 17.128.020 and BMC 17.56.040(F). [Ord. 89-O-446 § 1.]

17.56.060 Signs.

Signs shall be permitted in accordance with Chapter 17.88 BMC. [Ord. 89-O-446 § 1.]

17.56.070 Parking.

Off-street parking shall be provided in accordance with Chapter 17.92 BMC. [Ord. 89-O-446 § 1.]

17.56.080 Other required conditions.

A. Site plan approval required as provided in Chapter 17.80 BMC.

B. In any C-4 district directly across a street from, or abutting any lot in an Residential district, the parking and loading area shall be set back at least 10 feet from the property line and said area shall be landscaped in compliance with 17.92.100 (H).

C. All businesses shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Ord. 00-O-446.JJ § 6; Ord. 89-O-446 § 1.]

D. Prior to any development activity on the property, the applicant must comply with 17.100.030, General Mitigation, BMC.

E. An accessway to a new proposed off-street parking area shall be improved from the public roadway to the parking area to a minimum width of 20 feet for two-way traffic. If the accessway is a one-way in or one-way out, it shall be a minimum width of 10 feet and have appropriate signage.

F. All businesses and serviced shall be conducted entirely within a completely enclosed structure, except for condition uses, outdoor dining area, seasonal sales lots, outdoor equipment, outdoor furniture, dispensers, boat storage and maintenance/service, and bus stations. In addition, temporary sales of products allowed either as an outright permitted or a conditionally permitted use, for not more than seven consecutive days, may be conducted outside on private property. These sales may occur no more than four times during a calendar year. The seller must have a current business license and required parking spaces must remain available for use by vehicles.

G. Screen from view all roof-, wall-, or ground-mounted mechanical equipment and devices, in addition to propane tanks.

H. Refuse receptacles or dumpsters shall be appropriately positioned, colored or screened to minimize visibility to vehicular traffic or pedestrians.

First reading: _____

Second reading: _____

Passage: _____

Effective date _____

Signed by me in authentication of its passage this _____ day of _____, 2010.

Mayor Larry Anderson

ATTEST:

City Recorder Joyce Heffington

Annual Report

Dianne Morris

From: DrHedda@aol.com
Sent: Monday, November 30, 2009 2:29 PM
To: Dianne Morris
Subject: For your review and comments

12.1.09

City of Brookings
Planning Commission
Annual Report 2090

Once again we have had a busy and intellectually demanding year.

We have participated in several Workshops and on other County Chaired boards. In particular the HATSRP Board which required a lot of reading and preparation.

The Planning Commission has reviewed over 32 cases: 6 Conditional Use Permits, 1 Final approval to subdivide, 2 Partitions, 1 Variance, 3 Modifying Conditions of Approval and 2 Plat Maps.

The items that drew the most public participation were the plans and then revised plans for the new college.

We received and reviewed 16 changes to the Land Development Code Section 17. These were all significant and very important to the future growth of Brookings and therefore the Planning Commissioners carefully reviewed every word, dot and comma.

It was a successful year with excellent attendance by the Commissioners who showed up prepared for every item on the agenda.

We got two new members who learned the ropes very quickly. Both of them came to us with many years of experience in related fields.

We are now looking forward to another exciting year of P.C. meetings. Who knows what challenges we will face. Yet, I know that we are prepared to handle it all.

Thank You
Hedda Markham
Chairperson, Planning Commission
City of Brookings

Catherine Wiley
96370 Duley Creek Rd.
Brookings, OR 97415

541-469-1962

January 11, 2010

To:	Brookings City Council From Catherine Wiley
Re:	File No. LDC-14-09 , Chapter 17.70 Master Plan of Development

As a plaintiff in the LUBA appeal of the Brookings Master Plan of Development, I am registering my opposition and significant concerns to the proposed changes in the MpoD under review for legislative decision tonight.

It is clear that the wording, "conditions have not changed" is in need of revision for the purposes of clarification, objectivity, and reasonable means of measure.

However, I have spent significant time in review of the proposed changes, and I view the proposed language revision to the "conditions have not changed" component to obfuscate and confuse the issue of the definition of "change" further. (17.70.120 "The Applicant has the opportunity to apply for an extension of time prior to the expiration of the approval. Where the Planning Commission finds that the circumstances have not changed such that the findings addressing the criteria in BMC 17.70.070, adopted at the time of the approval, would be invalidated by the delay and extension of time for development, the Commission may grant the extension." (WHEW!!!)

Further, the numerous additional changes proposed are far from mere "housekeeping changes". The "simple clarifications" referenced are, in fact substantive, in many instances, totally altering parameters, changing or deleting BMC codes in place at the time of the MpoD, and reducing or eliminating safeguards for adjacent property owners and the general public.

It is abundantly clear that, were this Master Plan of Development BMC proposed initially, the public comments, concerns and LUBA appeal itself would have been significantly different.

Without exhaustive detail, the following examples will reference components of concern:

- Page 5, B, #1 deleted. The requirement provided relevant maps to the public and adjacent land owners.
- Page 6, 2.b. deletes the requirement for slope *analysis*. Certainly an analysis provides more information and safeguards to the public than a "geologic hazard report."
- Page 7, 17.70.050, A. There are significant and substantive differences in Chapter 17.04 BMC, Development Permit Procedures, which are proposed for deletion, to BMC 17.80.050 Site Plan Approval, proposed as revision.

- Page 8, 17.70.070 Review Criteria, B. The proposed language revision deletes all specific timelines and means of measure with language that is unacceptably broad, open to potential for bias & discrimination, etc.
- Page 8, E The use of the term “existing regulations” could be misinterpreted. The regulations required for compliance with the MpoD are those in force at the time of MpoD approval.
- Page 8, 17.70.090, A. The proposed change does not reflect Code 17.70.090.
- Page9, 17.70.100 Deleting Chapter 17.04, BMC, Development Permit Procedures eliminates, yet another reference to compliance and safeguards.
- Page 9, 17.70.120 The entire proposed revision is confusing. (“The Applicant has the opportunity to apply for an extension of time prior to the expiration of the approval. Where the planning Commission finds that the circumstances have not changed such that the findings addressing the criteria in BMC 17.70.070, adopted at the time of the approval, would be invalidated by the delay and extension of time for development, the Commission may grant the extension.”) In addition, the definition of “substantial construction” does not even agree with the definition of “construction” itself. Obtaining permits at the time of DDP review was a stipulated remand issue from LUBA. Permits and construction are not synonymous.

The specific examples provided above are just that. Each page has significant and substantive recommendations for alterations to the specifications and safeguards of the Brookings MPoD.

It is requested that the plaintiffs, and legal entities involved in the LUBA appeal have an additional period of two weeks for an opportunity to address these, and hopefully mediate some of the changes proposed.

Thank you.

Sincerely, Catherine Wiley



City of Brookings

898 Elk Drive, Brookings, OR 97415

(541) 469-1138 Fax (541) 469-3650

dmorris@brookings.or.us

MEMO

To: City Council
Gary Milliman, City Manager

FROM: Dianne Morris, Planning Director

DATE: January 11, 2010

SUBJECT: Hearing LDC-14-09 to consider revisions to Chapter 17.70, Master Plan Development District.

A packet with proposed revisions was distributed a week ago. Staff has met with Council Hedenskog to consider additional revisions. A draft incorporating these revisions is attached to this memo.

Procedure at the hearing:

The Council should have Staff present the proposed changes found in your original packet, respond to any questions from Council, allow any testimony from the public, and then continue the hearing to their next meeting, January 25, 2010. This will allow the Council, and the public, time to review Councilor Hedenskog's proposed revisions.

There is no rush to complete this hearing and it's in everybody's interest to make it the best document possible. Thank you for your efforts to this end.

Chapter 17.70 MASTER PLAN DEVELOPMENT (MPD) DISTRICT

DRAFT Jan. 11, 2010 - Councilor Hedenskog's Suggested Changes in Red.

Text to be added is ***bold and italicized***.

Text to be omitted has ~~strikethrough~~.

Sections:

17.70.010	Purpose.
17.70.020	General provisions.
17.70.030	Allowed uses.
17.70.040	Master plan of development (MPoD) review procedures.
17.70.050	Acceptance of application.
17.70.060	Staff evaluation.
17.70.070	Review criteria.
17.70.080	Action by planning commission.
17.70.090	Action by the city council.
17.70.100	Notice of decision.
17.70.110	Effective date and assurance.
17.70.120	Effective period of master plan of development (MPoD) approval.
17.70.130	Modification of a master plan of development (MPoD).
17.70.140	Detailed development plan (DDP) review procedures.
17.70.150	Acceptance of application.
17.70.160	Staff evaluation.
17.70.170	Review criteria for determining compliance with master plan of development (MPoD).
17.70.180	Action by the planning commission.
17.70.190	Effective date.
17.70.200	Effective period of detailed development plan (DDP) approval.
17.70.210	Modification(s) of a detailed development plan (DDP).
17.70.220	Determining compliance.

17.70.010 Purpose.

The ***Master Planned Development*** (MPD) zone is a land use district. The ***MPD*** zone may be applied on sites that are 50 acres or greater in size. The MPD zone shall implement the MP comprehensive plan designation, which shall be placed on all land requiring a "master plan of development" in the ***Urban Growth Joint Management Agreement (UGMA) (JMA)*** adopted by the ***City*** and the ***County***. Upon or subject to annexation into the ***City***, the ***MPD Comprehensive Plan*** designation shall be applied to all land that is required to adopt a "***Master Plan of Development***" (MPoD) in the urban growth boundary. In addition, the city may apply the MPD designation to other lands within the city.

The MPD zone is to be implemented through the approval of a MPoD that describes in detail, as outlined in this chapter, how the development of the property will occur and how the development will implement applicable goals and policies of the City's Comprehensive Plan, and applicable provisions of the Land Development Code. The MPoD will assess and minimize, to an acceptable level, the impacts of the development on the City's services, infrastructure, transportation systems and neighboring properties. **Best engineering practices for low impact development which preserve existing vegetation, topography, and natural drainage are encouraged.** As the MPD zone is implemented through an approved MPoD, no development shall be allowed until applicable requirements of this chapter are met. Compliance with applicable plan goals and policies is deferred until the MPoD review.

Master Planned Development review procedures are established in this chapter for the following purposes:

A. Promote flexibility in design and permit diversification in location of structures;

B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;

C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion. **Retention of existing mature trees and other vegetation is encouraged;**

D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;

E. Combine and coordinate architectural styles, building forms and building relationships within the planned development;

F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design moneys, while providing the City with assurances that the project will retain the character envisioned at the time of approval;

G. Promote and encourage energy conservation; and

H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project. [Ord. 03-O-446.PP.]

17.70.020 General provisions.

Development within a Master Planned Development (MPD) zone is governed by the approval of a MPoD which can be developed in a single phase or in multiple phases. Prior to development a MPoD must be approved and prior to construction of any phase a Detailed Development Plan (DDP) must be approved. On sites where a MPD designation exists on the City's official zoning map the provisions of this chapter shall apply. The following procedure allows for Planning Commission review of a MPoD and detailed development plan. **DDP.** An application to apply the MPD zone to specific properties may be submitted and reviewed concurrent with MPoD approval. The applicant may either select to process the development proposal under a DDP concurrent with approval of the MPoD or may request only approval of a MPoD in accordance with BMC [17.70.050](#) and later apply for a DDP for an individual phase or phases of the

project. However, prior to issuing any building permits a DDP must be approved by the **Planning Commission**.

An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations. [Ord. 03-O-446.PP.]

17.70.030 Allowed uses.

The following uses are allowed outright when they are included in an approved MPoD.

- A. All uses allowed outright and conditionally in the R-1, R-2, R-3 zones;
- B. All uses allowed outright and conditionally in the C-1, C-2, C-3 and C-4 zones.
- C. All uses allowed outright in the I-P and M-2 districts. [Ord. 03-O-446.PP.]

17.70.040 Master plan of development (MPoD) review procedures.

An application filed for a MPoD shall be reviewed in accordance with the following procedures.

A. Application Requirements. Applications shall be made **by the owner, or authorized representative**, on forms provided by the **City**. ~~The person filing the application must be the owner or a person having an interest in the land to be included in the MPoD. If the MPoD is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having an interest in each of the separately owned properties to be included.~~

- 1. The application shall be accompanied by the following:
 - a. ~~Three copies of the narrative on eight-and-one-half inch by 11-inch sheets;~~ **A narrative description of the project addressing the items listed in 17.70.040(C);**
 - b. Four sets of ~~full~~-scaled black line drawings of the MPoD graphic(s), with sheet size not to exceed 30 inches by 42 inches. Where necessary, an overall plan with additional detail sheets may be submitted; and
 - c. One set of the graphics shall be reduced to fit on eight-and-one-half inch by 11-inch sheets of paper. Graphics and related names/numbers must be legible on this sheet size.

B. Graphic Requirements. A MPoD shall include the following information where applicable:

- 1. ~~Public notice map including properties within 250 feet of the boundary of the MPoD.~~

1. Existing land use map (typically a topographic map that extends at least 300 feet beyond the site. The map includes existing building footprints and makes a distinction between single-family, multifamily, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);

2. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend – placed in the same location on each sheet and containing the following:

a. Existing site conditions including contours at intervals ~~sufficient to indicate topographic conditions not greater than 5 feet~~, watercourses, flood plains, and any unique natural features ~~prepared by an engineer or surveyor licensed in the State of Oregon~~;

b. Slope analysis ~~A geologic hazard report~~ for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes ~~of 15% or greater~~, high water table, or other geologic hazard, ~~as required in 17.100, Hazardous Building Sites, BMC~~;

c. ~~Exterior~~ boundary of the proposed MPoD and any interior ~~boundaries~~ lots/ parcels related to proposed development phases or land divisions;

d. Land use areas ~~identified~~ ~~designated for dedicated to~~ residential ~~use~~ within the MPoD shall be identified as such and indicate ~~ing~~ the type of residential use, the number of units within the area and resulting density;

e. General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, ~~such as~~ public parks, recreational areas, school sites, ~~(and similar public and semipublic uses) or others~~;

f. Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, ~~service areas, loading areas,~~ and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;

g. Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, and water, ~~electricity, and other non-municipal utilities~~, where appropriate. ~~Staff will provide written information concerning existing infrastructure and adequacy to serve proposed development~~;

h. ~~Show adjoining~~ ~~Sufficient information on~~ land areas within ~~at least~~ 150 feet of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;

i. Location of natural resource, historic and cultural resources as identified on adopted City and County inventories.

~~3 4. The City Planner may also require additional information to evaluate the proposal.~~

C. Narrative Requirements. A written statement shall include the following information:

1. Statement of planning objectives to be achieved by the project. This statement should indicate a description of the character of the proposed development, and a discussion indicating how the application meets the review criteria in BMC [17.70.070](#).

2. Statement addressing how the project is in compliance with the applicable goals and policies of the comprehensive plan.

3. Quantitative data for the total concept development plan for the following where appropriate:

- a. Total number and type of dwelling units;
- b. Parcel size;
- c. Proposed lot coverage of buildings and structures where known;
- d. Gross densities per acre;
- e. Approximate allocation and amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas);
- f. General type and location of land committed to nonresidential construction uses. The applicant may specify a list of allowable uses within the master plan area which may not include all uses allowed in the underlying zone;

4. General statement of intentions concerning timing, responsibilities, and assurances for all public and nonpublic improvements, such as irrigation, private roads and drives, landscape, and maintenance;

5. Statement describing project phasing, if proposed. Phases shall be:

- a. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development;

- b. Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and

- c. Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the MPoD.

- d. Phasing plan including timing for construction and provision of dwelling units, parcel sizes and open space by phase.

6. Traffic impact study consistent with phasing plan. [Ord. 03-O-446.PP.]

17.70.050 Acceptance of application.

A. The **City Planner** shall review the application in accordance with Chapter ~~17.04~~ BMC, ~~Development Permit Procedures.~~ **BMC 17.80.050, Site Plan Approval.**

B. After ~~accepting a complete application~~ ***an application is deemed complete***, the **City Planner** shall schedule a public hearing to be held by the **Planning Commission**. Notice of the hearing shall be provided in accordance with Chapter ~~17.84~~ BMC, **Public Hearings Notice Procedures.** [Ord. 03-O-446.PP.]

17.70.060 Staff evaluation.

The **City Planner** shall prepare a report that evaluates whether the MPoD complies with the review criteria. The report shall also include a recommendation for approval or denial and, if needed, a list of conditions for the **Planning Commission** to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.070 Review criteria.

The **Planning Commission** shall approve an application for MPoD upon finding that the following approval criteria are met:

A. The proposed MPoD is consistent with the purposes identified in BMC [17.70.010](#) and the intent of the MPD zone;

~~B. The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the planning commission either at the time of approval of the MPoD or by a modification to the MPoD. If at the end of 10 years the project is not built out, the planning commission shall review the MPoD and shall have the ability to require changes to or rescind the plan based on existing conditions;~~

B. If phases (stages) are proposed, the Applicant must submit a timeline to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.120 describes the effective period of approval.)

C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase;

D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site;

E. The applicant demonstrates that all deviations from the development standards are warranted ***and that such alternatives standards equally or better meet the purpose of the existing regulations. Best engineering practices for low impact development which preserve existing vegetation, topography, and natural drainage are encouraged; (moved this sentence to the Purpose statement, 17.70.010)***

F. The circulation plan proposed in the MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic;

G. The proposed MPoD meets the applicable requirements of the **Urban Growth Boundary Joint Management Agreement**. [Ord. 03-O-446.PP.]

17.70.080 Action by Planning Commission.

The **Planning Commission** shall conduct a public hearing in accordance with BMC [17.84.040](#). Following the close of the hearing the **Planning Commission** shall recommend the approval, conditional approval or denial of the MPoD. The recommendation shall be reported to the **City Council** by filing said recommendation with the city recorder. ***In a Council Agenda Report which includes findings that specify how the application has or has not complied with the above review criteria.*** The commission's recommendation shall

include findings that specify how the application has or has not complied with the above review criteria. [Ord. 03-O-446.PP.]

17.70.090 Action by the City Council.

A. Upon receipt of said report from the planning commission or upon the expiration of such 90 days as aforesaid, ~~A~~ public hearing is automatically ***will be*** set for the next regular ***scheduled before the City Council***. meeting following the receipt of the report; provided, however, that the ~~Council~~ may, by motion, set the date of such public hearing at such other time or at such other place it desires.

B. At the conclusion of the public hearing, the ~~Council~~ may enact an ordinance granting approval of the MPoD, approval of the MPoD with conditions, or may, by motion, deny the granting of the MPoD. [Ord. 03-O-446.PP.]

17.70.100 Notice of decision.

The ~~City~~ **Planner** shall provide the applicant with a notice of decision ***and Final Order*** in accordance with Chapter ~~17.04~~ BMC, Development Permit Procedures, and other applicable legal requirements, that includes a written statement of the ~~City Council~~ decision, a reference to findings leading to it, any conditions of approval, and appeal period deadline. A notice of decision shall also be mailed to persons who presented testimony orally or in writing at the public hearing. [Ord. 03-O-446.PP.]

17.70.110 Effective date and assurance.

The decision of the ~~City Council~~ shall become effective 15 days from when the ***postmark date on the mailing of the Final Order***. notice of decision is mailed.

Approval of the MPoD shall assure the applicant the right to proceed with the development in substantial conformity with the plan and approval of the DDP, subject to such modifications as may be authorized. Changes to zoning ordinances, policies and standards adopted after the date of approval of the plan shall not apply to the development during the duration of the plan. [Ord. 03-O-446.PP.]

17.70.120 Effective period of Master Plan of Development (MPoD) approval.

If the applicant has not submitted a DDP for the planned development or the first phase within four years from the date of approval, the MPoD shall expire. ***The Applicant has the opportunity to apply for an extension of time prior to the expiration of the approval.*** Where the ~~Planning Commission~~ finds that conditions have not changed, ***the circumstances have not changed such that the findings addressing the criteria in BMC 17.70.070, adopted at the time of the approval, would be invalidated by the delay and extension of time for development, the Commission may grant the extension.*** The ~~Commission~~ may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements. If after the approval of the first DDP, ***substantial*** construction has not been started or at any time construction has lapsed for a period of three years, the MPoD will expire. ***Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of***

any structures or needed infrastructure. BMC 17.70.200 describes the approval period for a DDP and requests for an extension of time. [Ord. 03-O-446.PP.]

17.70.130 Modification of a master plan of development (MPoD).

An applicant may request modification of an approved MPoD subject to the review criteria set forth above as applicable to the initial approval of the plan and subject to the following review procedures (all modifications within this chapter relating to a change in traffic trip generation shall be based on the most recent edition of the Institute of Transportation Engineers (ITE) manual):

A. A modification shall qualify for a minor review if the proposed modification request results in an increase in traffic generation trips equal to or less than 10 percent of the total peak hour trips anticipated in the MPoD, as approved. The city planner shall make the determination as to whether a proposed modification is major or minor. A minor modification may be approved conditionally, approved, or denied by the city planner. If the city planner determines that the proposed minor modification has significant impacts of a magnitude equivalent to those of a major modification, the city planner may refer the matter to the site plan committee to determine if the application should be referred to the planning commission for decision. The following notice and appeal requirements apply to a decision by the city planner to allow, allow conditionally, or deny:

1. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all of the information required by BMC [17.70.140](#), modification of a MPoD.

2. Notice of a Request. Within seven days of receiving the complete application the city planner will mail a notice of the request to all property owners within 250 feet of the lot and to persons on record as interested parties.

3. Processing Time. A 20-calendar-day written comment period shall be provided from the time notice is mailed to provide interested persons with an opportunity to submit written comments about the proposed modification before the city planner makes a decision on the request.

4. Decision. Upon close of the comment period the city planner shall review all written comments actually received by the department within the comment period and the applicant's response to the comments. The city planner shall then issue a decision. The notice of decision shall be mailed to the applicant and those provided notice.

5. Appeal. The decision of the city planner shall be final. Within 15 days of the mailing of the notice of decision, an appeal may be made to the planning commission.

B. A modification shall qualify for a major review if the proposed modification results in an increase in traffic trips greater than 10 percent of the total peak hour trips anticipated in the approved MPoD. In reviewing a major modification request, the commission shall follow the procedures required for a MPoD submittal.

~~C. In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change. [Ord. 03-O-446.PP.]~~

A modification to an approved MpoD is required when a proposed DDP does not meet the standards stated in 17.70.170. An Applicant may request a modification of an approved MPoD by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or to the conditions of approval. The request must be accompanied by:

A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;

B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.

C. The Applicant must provide findings for the following criteria:

1. Address how the requested modification relates to the approved project and any impacts that will result.

2. Address any impacts to adjoining properties.

3. Address the effect on City services and facilities.

The Planning Commission will review the proposed modification based on the criteria in 17.70.130 (C).

In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

17.70.140 Detailed Development Plan (DDP) review procedures.

The applicant can request that each phase or a portion of a phase be reviewed in accordance with the DDP review procedures, so long as each detailed development plan is in substantial conformance with the MPoD. ~~A. Application Requirements. An application filed for a DDP shall address the applicable requirements specified for a MPoD above~~ ***in the approved MPoD for the subject property*** and include the following additional information.

A. Graphic Requirements. In addition to the graphic requirements specified for a MPoD, a DDP Must demonstrate the DDP is in substantial conformance with the approved graphic depiction of the MpoD for the subject property completed to a scale sufficient to clearly show all required data, on paper not to exceed 30" x 42" and shall include:

1. Topographic contours at two-foot minimum intervals for slopes under 20 percent and at five-foot minimum intervals for slopes at or greater than 20

percent. Where the **grade slopes** exceeds 15 percent or where the development site abuts existing developed lots, a grading plan shall be required. If a grading plan is required, it shall conform to **compliance with** the standards established in Chapter **17.100** BMC, **must be met**, unless alternative standards are proposed at the time of the DDP approval;

2. For all buildings except single-family and duplex homes, the location of existing and proposed structures and other improvements, including maximum heights, building types, and gross density per acre (for residential developments) and location of fire hydrants, existing overhead lines in the abutting right-of-way, easements and walkways;

3. Typical **architectural** elevations of buildings and structures (which may be submitted on additional sheets) sufficient to indicate the architectural intent and character of the proposed development for all buildings except single-family and duplex residential;

4. Landscape plan **also** drawn to scale showing location of existing trees and other significant vegetation proposed to be removed from or to be retained within the area of the site to be developed, location and design of landscaped areas, varieties and sizes of trees and plant materials to be planted, **landscaped areas and** other landscape features including walls and fences, and irrigation systems proposed to maintain plant materials. **A list of trees and other plant materials to be used shall be provided. 40% of new trees and plants must be drought-resistant. Retention of existing mature trees and other vegetation is encouraged. (moved to Purpose statement, 17.70.010 (C)). The landscape plan must be in compliance with applicable section of BMC 17.94, Landscaping, and BMC 17.92.100, Off-street Parking Areas.** Identification of trees shall be in compliance with BMC **17.172.060(B)(16)***;

5. Utilities plan indicating how sanitary sewer, storm sewer, **natural drainages**, and water systems will function and how negative impacts to existing sanitary sewers, storm sewers, drainage and water systems of adjacent properties will be avoided;

6. Circulation plan showing street, driveway, parking area, service area, loading area, pedestrian way, and bikeway improvements and their dimensions;

7. Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, **and similar public and semipublic or other** areas;

8. Exterior lighting plan indicating the location, size, height, typical design, material, color, and method and direction of illumination. **Lighting on streets proposed to be dedicated to the City must comply with standards found in the Public Works document, "General Engineering Requirements and Standard Specifications"** ;

9. Types and locations of trees to be preserved or planted.

B. Narrative Requirements. In addition to the narrative requirements specified for a MPoD above, **addressing the applicable conditions of approval in the Final Order of the approved MpoD for the subject property**, the DDP shall include:

1. Proposals for setbacks or approximate building envelopes, lot areas where a concurrent land division is proposed and number of parking spaces to be provided (in ratio to gross floor area or number of units);

2. Updated statement outlining timing, responsibilities, and assurances for all public and nonpublic improvements such as irrigation, private roads and drives, landscape, and maintenance; identify any changes since approval of MPoD;

3. Statement addressing compatibility of proposed development to adjacent land uses relating to such items as architectural character, building type, and height of proposed structures;

4. Statement demonstrating consistency with adopted traffic impact study and the transportation plan.

C. Tentative Plat. If a **MPoD DDP** is to be partitioned or subdivided, a tentative plan or plat shall also be submitted as part of a MPoD or DDP submittal in accordance with Chapter [17.172](#) BMC, Land Divisions, to permit simultaneous review. [Ord. 03-O-446.PP.]

* Code reviser's note: BMC [17.172.060\(B\)\(16\)](#) was removed as part of the amendments of Ordinance 07-O-587. Contact the city for clarification concerning the identification of trees.

17.70.150 Acceptance of application.

A. The **City Planner** shall review the application in accordance with Chapter [17.04](#) BMC **17.80.050**, Development Permit Procedures. **Site Plan Approval.**

B. After accepting a complete application **an application is deemed complete**, the **City Planner** shall schedule a public hearing to be held by the **Planning Commission**. Notice of the hearing shall be provided in accordance with Chapter [17.04](#) **17.84** BMC, Development Permit Procedures. **Public Hearing Notice Proceedings.** [Ord. 03-O-446.PP.]

17.70.160 Staff evaluation.

The **City Planner** shall prepare a report that evaluates whether the DDP complies with the review criteria in BMC [17.70.170](#). The report should include a recommendation for approval or denial and, if needed, a list of conditions for the **Planning Commission** to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.170 Review criteria for determining compliance with master plan of development (MpoD).

A. Request for approval of a DDP shall be reviewed to determine whether it is in substantial conformance with the MpoD. The DDP shall be deemed to not be in substantial conformance with the MpoD if it results in any of the following types of changes from the MpoD:

1. **Increase Change** in development density and/or intensity that results in a peak hour trip generation of greater than 10 percent of the total approved in the MpoD;

2. ~~Increase in the floor area proposed for nonresidential use by more than 10 percent from what was previously specified;~~

2. Reduction of more than 10 percent of the area reserved for common open space and/or usable open space from what was previously specified;

~~4. Increase in the total ground area proposed to be covered by structures by more than five percent from what was previously specified;~~

3. Reduction of specific setback requirements by more than ~~25~~ **10** percent where previously specified; and

4 Reduction of project amenities provided such as recreational facilities;

5.Reduction of screening, and/or landscaping provisions by more than 10 percent from what was previously specified; **and**

6. If subdivision or partition, the application does not meet the applicable requirements of Chapter 17.172 BMC.

This list is not all inclusive. The DDP must generally be in substantial conformance with the MpoD.

B. All deviations within the limits set by the criteria in subsection (A) of this section from those of the approved MPoD shall be justified and explained either in the required graphic or narrative materials. [Ord. 03-O-446.PP.]

C. If phases (stages) are proposed, the applicant must submit a timeline, to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.200 describes the effective period of approval.)

17.70.180 Action by the Planning Commission.

The **Planning Commission** may approve, conditionally approve, or deny the DDP. The **Planning Commission's** decision shall include findings that specify how the DDP is or is not in substantial conformance with the MPoD. [Ord. 03-O-446.PP.]

17.70.190 Effective date.

The decision of the planning commission shall become effective 15 days from ***the postmark date on the mailing of the Final Order*** ~~when the notice of decision is mailed~~ unless an appeal is filed. [Ord. 03-O-446.PP.]

17.70.200 Effective period of detailed development plan (DDP) approval.

A. Approval of a DDP shall be valid for a three-year period from the date of initial approval. If the applicant has not begun construction within this time frame, the approval shall expire. At its discretion and without a public hearing, the Commission may extend the approval ~~one time~~ for a period not to exceed two additional years per extension.

B. ~~If the Planning Commission may permit~~ ***has approved*** implementation of the DDP in phases, ***the approved timeline will apply. At its discretion and without a public hearing, the Commission may extend the approval for a period not to exceed two additional years per extension.*** [Ord. 03-O-446.PP.]

17.70.210 Modification(s) of a detailed development plan (DDP).

~~This section identifies the processes by which an approved DDP may be modified. Such modifications are necessary to the extent that final building and construction plans are not in substantial compliance with the adopted DDP. In general, such plans may be modified in two ways, depending upon the degree of modification proposed. These include:~~

~~A. Changes that modify the approved plan but do not increase traffic trips by more than 10 percent of traffic trips generated by the development approved in the MPoD may be approved, approved with conditions, or denied by the city planner pursuant to applicable public notice and hearing opportunity requirements. If the proposed changes do not increase traffic trips by more than 10 percent but the changes have significant impacts of a magnitude equivalent to a 10 percent traffic increase, the city planner may refer the matter to the site plan committee to determine if the application should be referred to the planning commission for decision.~~

~~B. Those changes which cause an increase in the traffic trips greater than 10 percent of those generated by the development approved in the MPoD may be approved, approved with conditions or denied by the planning commission in accordance with BMC [17.70.080](#).~~

A modification to an approved DDP is required when final building and/or construction plans are not in substantial conformance with the adopted DDP. An Applicant may request a modification of an approved DDP by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or the conditions of approval. The request must be accompanied by:

A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;

B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.

C. The Applicant must provide findings for the following criteria:

- 1. Address how the requested modification relates to the approved project and any impacts that will result.***
- 2. Address any impacts to adjoining properties.***
- 3. Address the effect on City services and facilities.***

The Planning Commission will review the proposed modification based on the criteria in 17.70.210 (C).

In a modification, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change. [Ord. 03-O-446.PP.]

17.70.220 Determining compliance.

A building permit or other site development permit request shall be in substantial compliance with the DDP and all modifications. [Ord. 03-O-446.PP.]