

ORDINANCE 2011-10

AN ORDINANCE OF CITY OF KUNA, IDAHO, AMENDING TITLE 5, "ZONING REGULATIONS", OF CHAPTER 7, "PLANNED UNIT DEVELOPMENT" AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, discussions have been held by the Kuna City Council to amend the Planned Unit Development requirements; and

WHEREAS, this amendment complies with the Kuna Comprehensive Plan; and

WHEREAS, it is deemed to be in the best interest of the City of Kuna to amend Chapter 7, Title 5, "Planned Unit Development (PUD)".

WHEREAS, this zoning amendment is pursued in accordance with KCC 5-13, "ZONING AMENDMENTS"; and

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KUNA, IDAHO that:

Ordinance Section 1. Title 5, Chapter 7, of the Kuna City Code is amended, which shall read as follows:

**CHAPTER 7
PLANNED UNIT DEVELOPMENT**

SECTION:

- 5-7- 1: Definition Overview
- 5-7- 2: Purpose
- 5-7- 3: Planned Unit Development Standards
- 5-7- 4: Provisions Governing Planned Unit Development
- 5-7- 5: Minimum Area
- 5-7- 6: Uses Permitted
- 5-7- 7: Approval Criteria and Conformance with Zoning and Title 5
- 5-7- 8: Use Exceptions
- 5-7- 9: Developer Incentives and Benefits
- 5-7-10: Ownership Requirements
- 5-7-11: Common Open Space
- 5-7-12: Utility Requirements
- 5-7-13: Increased Residential Density
- 5-7-14: Arrangement of Commercial Use
- 5-7-15: Procedure for PUD Approval
- 5-7-16: Pre-Application Meeting
- 5-7-17: Application for Approval of a Preliminary Development Plan
- 5-7-18: Procedure for Public Notice
- 5-7-19: Commission Approval of a Preliminary Development Plan
- 5-7-20: Application for Approval of Final Development Plan
- 5-7-21: Commission Recommendation on Final Development Plan
- 5-7-22: Council Action on Final Development Plan
- 5-7-23: Extension of Preliminary Development Plan Approval Period
- 5-7-24: Improvement Guarantees
- 5-7-25: Amendments to the Final Development Plan

5-7-1: **OVERVIEW**

A planned unit development (PUD) is a land use process applied to a land parcel or combination of parcels that are planned and developed together and controlled by a single legal entity (controller). The entity may have control by virtue of affidavits of legal interest executed by owners of all parcels. The PUD will need to remain with a single controller throughout the application and approval process; however, the control may be assigned to another controller. The controller will need to provide the City an affidavit that they have control of land considered for PUD purpose at time of application submission.

If all or a portion of the development is transferred, the acquiring entity must agree to adhere to all of the approved plans, easements, agreements, and other applicable documents. This transfer restriction does not apply to the sale and transfer of individual properties as denoted in the final approved development plan and the subsequent plat.

The PUD may contain residential, commercial, office and technical uses, a variety of building types and densities, common open space variations, clustered development and recreational facilities. A PUD is akin to an overlay zone or district and **requires processing through the special use permit (SUP) process**. A PUD also **requires a development agreement**. If the PUD qualifies as a subdivision, (because it involves the dividing of land), the controller shall also **file a preliminary subdivision plat** as part of the application process along with the conceptual site plan. Certain elements of the PUD are subject to the City's **design review process**.

A PUD can be either residential or commercial in nature and may feature a corresponding commercial or residential mixed-use component. The contributing mixed use feature is considered the subordinate use intended to be integrated with and support the primary use. The subordinate use may account for up to thirty percent (30%) of the PUD's total land area, except in the central business district (CBD) where there is no percentage requirement, unless the subordinate use can satisfy a deficiency or goal in the Comprehensive Plan or Capital Improvement Plan and as approved by City Council on a case by case basis. Under all circumstances the mixed-use component shall be compatible with the primary use(s) as determined by the Director.

5-7-2: **PURPOSE**

- A. The purpose of the PUD is to provide the controller an opportunity to preserve and utilize the terrain's natural topographic, geologic and scenic features. The PUD also provides an opportunity to initiate a more efficient pattern of residential and commercial uses; foster innovative design concepts; promote site design flexibility and provide for common open space or other amenities not found in a traditional development application.
- B. The PUD may be used as a tool to provide relief from certain land constraints that would otherwise impede development opportunity. Specifically, the PUD process provides Kuna's Planning and Zoning Commission and the City Council the opportunity to modify the zone's development standards in order to accommodate mixed-use projects. Any relief offered is intended to be compensated by additional amenities. The PUD process is not intended as a means to avoid the City's development rules or to cut financial corners at the Community's expense. *(See KCC 5-3-4-5:A)*
- C. *Development and dimensional standard modifications:* Development and dimensional standard modifications can be made to the underlying zone through the PUD process with the Commission's recommendation and Council's approval and provided the PUD application is in accordance with the City's adopted Comprehensive Plan. Any request for dimensional modification shall be balanced against health and safety considerations. *(See KCC 5-3-4-5:B)*

- D. The residential density applicable to the residential portion of the PUD shall not exceed the number of dwelling units per acre specified in the respective underlying residential zoning district(s). Development density may be increased, in certain circumstances. (See KCC 5-3-4-5:E)

*For purposes of this ordinance the phrase "in accordance with the adopted Plan" means that any land use application employed by the controller must be supported by the goals and objectives noted in the City's Plan rather than be in contradiction with them.

- E. A minimum 10 percent of the primary use shall receive building permits prior to the initiation of the mixed-use development components, unless the mixed-use is applied to a combination residential/commercial use such as a residential condominium development with first floor commercial retail. In this or similar circumstances, the mixed-use component may be introduced along with the primary use. There shall be no minimum primary use requirement for development occurring in the central business district (CBD) zone. The controller may also initiate the development of public uses concurrent with the initiation of a primary use.

5-7-3: **PLANNED UNIT DEVELOPMENT STANDARDS**

The Council may approve a PUD, having considered a recommendation by the Commission, in accordance with the following standards/considerations:

- A. *Amenities*: The amenity contributions will be a function of project size. The controller will be expected to offer amenities commensurate with the project's scope and complexity. The amenities contributed shall be based on the development at build out. Amenity contribution should be evenly spread in a prorate fashion rather than on the back end of the development.

A minimum two (2) of the following amenity applications shall be provided in the PUD:

1. Active recreational amenities such as playgrounds; basketball or tennis courts; baseball, soccer or rugby fields; swimming pools; natatoriums; walking/running paths; clubhouse; school sites; etc., of a size and nature suitable to adequately serve the patrons of the development and located within a walkable distance for the intended users. The active recreational areas shall employ designs and safeguards to accommodate all age groups. The controller shall provide adequate off-street parking facilities for active residential amenities of a parking lot size and scope sufficient to accommodate the PUD patrons. Off-street parking standards are defined in City zoning code.
2. Pedestrian and bicycle pathway systems within and through the project (exclusive of required sidewalks adjacent to public right-of-way) and designed to connect into existing or planned pedestrian or bicycle routes outside the PUD. These pathway systems shall be designed and constructed in accordance with the City's development standards. The PUD shall employ trail systems that provide access to parks and open space. The trails shall be interspersed at distances through City blocks not to exceed entranceway distance separations of 660 feet in keeping with the spirit and intent of the American's with Disabilities Act (ADA). (See KCC 5-3-4-5:C) The circulation systems, parks and open spaces shall have recorded public easements through them so they may be utilized by the citizens of Kuna in order to create a barrier free community. Equestrian use may be integrated into the circulation system with a special use permit.
3. Other amenities appropriate to the size and uses intended in the PUD.
4. The manner of maintenance and responsibility for PUD amenities shall be specified by the controller prior to Council approval of the final development plan and plat. Under no circumstances is the public responsible for the care and maintenance of PUD amenities, unless dedicated to and accepted by the City

Council, or unless agreed to through a public/private partnership agreement constructed as part of the review process.

5. The need to provide amenities in the central business district (CBD) shall be determined on a case by case basis.
- B. *Concurrent review*: If there are other land use applications associated with the PUD they may need to be reviewed at the same time as determined by the director or their assignee.
- C. *Clustering*: Buildings may be clustered to preserve open space. The clustering of dwelling units, commercial and industrial uses is encouraged as long as the buffer yards, landscape buffers, open space and emergency access are adequately planned and sufficiently mitigate land use impacts. Buffer yards and/or landscape buffers shall be utilized to separate different uses in order to minimize potential nuisance on adjacent properties. The City may require clustering to avoid development in river areas, floodways, wetlands or other environmentally sensitive areas. (See KCC 5-3-4-5:D)
- D. *Density formula*: The density of residential areas of the PUD not dedicated for other purposes shall be computed apart from the commercial and public uses of the PUD and less any other areas established or pledged for public commitment or public or private dedication purpose. The residential density applicable to the residential portion of the PUD shall not exceed the number of dwelling units per acre specified in the respective underlying residential zoning district(s). Development density may be increased, in certain circumstances. (See KCC 5-3-4-5:E) To assure development flexibility, the Planning and Zoning Commission may recommend increasing the residential density up to 15 percent of the allowable number of dwelling units according to the zone's underlying zoning density. (See KCC 5-3-4-5:Q)

For example, the R-6 zone requires a minimum lot size of 4,500 square feet and therefore the number of dwelling units per acre cannot exceed 9.7. Density may be increased in certain circumstances (see KCC 5-7-6:A:3 or 5-7-13). If the underlying zone is nonresidential the density will be determined with consideration for nearby residential densities as well as zoning area regulations noted in KCC 5-3-3. For example, a C-1 (Commercial) type land use intended as the mixed-use component in a residential development would be evaluated based on surrounding development densities and its proportional relationship to the development's residential land uses as portrayed on the conceptual site plan and as approved by the Design Review Committee. Where a PUD involves more than one zoning district the density formula shall be calculated independently for each underlying zoning district.

- E. *Driveways, service driveways and publicly dedicated streets and alleys*: The PUD's paved driveway apron surface widths shall be a minimum twenty feet (20') for one and two-family dwellings; and a minimum thirty feet (30') for multi-family, public and commercial uses, unless Ada County Highway District (ACHD) requires the installation of alternative widths. Service driveways, drive-through lanes and emergency escape lanes shall have a minimum width of twelve feet (12'), and be signed "no parking" and designed to withstand emergency vehicle loading requirements as determined by the Fire District and City engineer. Publicly dedicated streets and alleys shall be designed and constructed to City and ACHD standards. Street layouts shall preserve the section line and half-mile section line right-of-way for transportation purpose in accordance with the City's Functional Classified Roadmap and Plan. (See KCC 5-3-4-5:F)
- F. *Open space*: A minimum 10 percent of the development's gross land area shall be set aside for open space purpose and mutually exclusive of the required residential landscape buffer applications as applied to the development according to the City's adopted landscape requirements. The open space shall be distributed

throughout the PUD as to provide recreation and open space access to all residences of the development and their guests. The open space areas shall be adequate in size to accommodate these residents and their guests. The land set aside for open space purpose shall be high quality land rather than some disposable land remnant. The open space area shall be safe for its occupants. Accordingly, areas intended for storm water use, occupied by overhead high power lines, designated as Brownfield areas, floodplains, within utility easements or possessing similar health safety conflicts may not qualify as open space as determined by the Commission and/or the Director. Open space areas placed next to railroad tracks, open drainage or irrigation systems, creeks or other potential hazards shall have adequate development safeguards employed as to safely mitigate the presence of these features. A minimum 10 percent of the development's gross land area shall be set aside for open space purpose and mutually exclusive of the required residential landscape buffer applications, as applied to the development according to the City's adopted landscape requirements. (See KCC 5-3-4-5:G) For example, a controller relying on the PUD process to develop a thousand acres would need to dedicate 100 acres of that sum for open space purpose but could be credited for up to 20 percent of that 100 acres (20 acres) toward dedication of land for public purposes. Dedication of land for public purpose may be applied to the amenity requirements noted in KCC 5-7-3:A. Dedicated and/ or public purpose lands are those that are accepted by the city of Kuna for public use. Lands considered for this purpose must be sufficient in size and scope to accommodate specific public need(s), free of encumbrances, pose no health or safety issues and serve the public interests as determined by the Kuna City Council in order to qualify for this designation and the ensuing City acceptance. Land dedicated for public use may be eligible for bonus density opportunity. (See KCC 5-7-9 (e))

- G. *Parking lots:* Parking lots are allowed in PUD's. Parking lot placement, layout and construction shall comply with all pertinent regulations for off street parking and loading facilities noted in KCC 5-9-1 through 5-9-5. It shall be the controller's responsibility to provide sufficient off-street parking lot facilities for active recreational amenities, commercial or intensive land uses. Where parking lots are provided, the adjoining streets shall be signed with "no parking" signage. No overnight or storage is allowed in parking lot areas. Parking lots shall be subject to design review. The area allocated for parking purpose shall be paved with an asphalt material. The parking lot construction and methods of storm drainage mitigation are subject to engineering review and approval. Parking lots shall meet ACHD and other agencies of jurisdiction's development requirements. If parking responsibility is assigned to a property owner's association (POA), the City will need to see the CCR's language explaining the property owner association's roles and responsibilities.
- H. *Phases:* The conditions of the approval established for a large PUD shall be consistently applied to each phase of the development, unless modified by agreement during the approval process.
- I. *Private streets and alleyways:* The city of Kuna prohibits private streets and alleys unless there is a hardship circumstance that warrants this consideration and not of the controllers making. In the limited circumstances where they are approved, private streets and alleyways shall be owned and maintained by private individuals or entities and not by government agencies. The controller shall provide documentation of a binding contract or recorded CCR's that establishes who will be responsible for the repair and maintenance of the private street or alleyway, including revenue sources for their long term sustainment. Private streets and alleyways shall be constructed on a perpetual ingress/egress easement and/or a separate and independent parcel(s) that provides access to applicable properties. The private street shall be constructed within 50-foot easement and shall have a minimum travel lane width of twenty-seven feet (27'). The street shall feature curb, gutter and 5-foot attached or detached sidewalks, unless the City or ACHD require wider sidewalks placed on both sides of the street. Private alleyways shall have a minimum travel lane width of sixteen feet (16') and be directionally signed one-way. Private alleys should connect to streets at both ends, but may terminate with a fire district

approved turn around, and provided the alley length does not to exceed 500 feet as measured from the closest connecting street edge.

Private Street and alleyway construction shall be in accordance with ACHD structural standards for roadways, including base course, asphalt, concrete mat thickness, and utilizing the appropriate traffic index. The private street or alleyway design shall be prepared and certified by a registered professional engineer. The private street or alleyway shall be constructed in accordance with the roadway surface and storm drainage standards of ACHD, or as approved by the city of Kuna engineer, based on plans submitted by a certified engineer. Private streets shall connect to a local (public) road with a minimum standard 36-foot street section within a 50-foot right-of-way. The private street should connect with other public or private streets to create a grid system where possible. A private street shall have a block length no longer than 500 feet unless necessary to ameliorate a topographical or infrastructure constraint(s). Private streets should connect to other streets but may terminate with a Fire District approved turnaround and provided the length does not exceed 500 feet as measured from the closest connecting street edge. The private street shall have street lighting in accordance with the regulations of KCC 6-4-2:N. The private streets shall provide sufficient maneuvering area for emergency vehicles as determined by the Kuna Fire Department. Gated entryways are prohibited in Kuna because they interfere with the concept of a barrier free community.

- J. *Public hearing requirement:* Preliminary and final development plans (concept plan) and special use applications (SUP) are subject to the public hearing requirements of section KCC 5-6-6 of this code and special use requirements of title 5 chapter 6 of this code.
- K. *School district:* The controller shall work with the school district to provide adequate transportation circulation and safe staging areas within walking distance for the children that will be transported from a residential PUD.
- L. *Setbacks:* The underlying zoning district setbacks shall be maintained along the PUD's periphery, unless there is a need to widen them to accommodate incompatible land uses. The landscape buffer dimensions, as set forth in the landscape ordinance for varying land intensities and use compatibilities, shall be applied to the PUD. *(See KCC 5-3-4-5:H)*
- M. *Structures:* Attached and detached dwelling units are permitted in PUD's in accordance with the City's adopted Uniform Building Code (UBC) requirements. The minimum separation distance between detached dwelling units shall be ten feet (10'), unless fire or building codes required greater separation distances. The separation distance of uninhabitable accessory buildings (from dwelling units, lot lines and easements) will be according to City and Fire District requirements. *(See KCC 5-3-4-5:I)*

5-7-4: **PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENT**

- A. If a conflict should arise between the provisions of this chapter and other chapters of this Title, the provisions of this chapter shall prevail, except health and safety related issues shall follow the more restrictive code. Subjects not covered by this chapter shall be governed by the respective provisions found elsewhere in this title.
- B. The PUD is subject to the requirements set forth in Kuna City Code Title 4, Chapter 5 (Flood Control Regulations); Title 6 (Land Subdivision Regulations); building codes; and the Comprehensive Plan. All commercial, multi-family and common areas are subject to the requirements found in Kuna City Code Title 5, Chapter 4 (Design Review Overlay District).

5-7-5: **MINIMUM AREA**

- A. A planned unit development shall contain an area of not less than two (2) acres, except in the central business district (CBD) where there shall be no underlying land area requirement, other than those associated with the zone's lot dimensions. *(See KCC 5-3-4-5:J)* The director has the capacity to vary dimensional standards by up to 20 percent with the Planning and Zoning Commission's concurrence. *(See KCC 5-3-4-5:K)*

5-7-6: **USES PERMITTED**

A. **RESIDENTIAL USES:**

1. *Housing types:* A PUD may incorporate a variety of residential and mixed-use housing types including but not limited to attached units (town-homes, duplexes), detached units (patio homes), single-family and multi-family units, mixed-use (where one floor is residential and another is commercial) and regardless of the site's underlying zoning classification, provided that the overall density limit of the zone is maintained and provided the housing application is in accordance with the City's Comprehensive Plan.
2. *Residential infill planned unit developments:* Lots and parcels that are a minimum two (2) acres in area and located in substantially developed areas of Kuna (where at least 80 percent of the land area within 300 feet of the boundaries of the parcel is built upon), and where municipal services (sewer, water, fire, police and schools) are available to the lot or parcel may qualify for infill development status. A parcel of land located in Ada County, annexing into the City, may be considered for PUD infill purpose if it can meet infill criterion. Accordingly, the Council may approve infill development PUD applications based on documentation that the site meets the prerequisite infill requirements and verification that municipal infrastructure and services such as roads, water, sewer, fire flow and fire protection devices are adequately available to the site.
3. *Infill incentive:* The Council may allow up to a 25 percent increase in the density of the property's underlying zone to encourage infill development, with a recommendation from the Planning and Zoning Commission or director. *(See 5-3-4-5:L)*
4. *Amenity modification:* The Council may also modify the amenity requirements set forth in this Chapter with a recommendation from the Commission or director.
5. *Other uses:* All uses that may be permitted or specially permitted within the underlying land use zone are allowed within a PUD. Uses other than those noted in the underlying zone may be permitted on a case by case basis. *(See KCC 5-7-8)* No more than 30 percent of the PUD's gross land area may be dedicated for mixed use land application to include public or quasi public uses, except in the central business district (CBD) where there shall be no percentage requirement, unless the dedication can satisfy a deficiency or goal in the Comprehensive Plan or Capital Improvement Plan and as approved by City Council on a case by case basis.

5-7-7: **APPROVAL CRITERIA AND CONFORMANCE WITH ZONING AND TITLE 5**

- A. A PUD is not permitted in the industrial and agricultural zones. A PUD is allowed in the residential, commercial, and office zones, provided that the Council makes the following findings:
1. The uses are compatible with the development and adjoining residential uses.
 2. The uses are an integral part of the PUD.
 3. The uses are located and so designed to provide direct access to functionally classified streets as a means to minimize congestion or traffic hazards.
 4. The underlying zoning and other applicable regulations under this Title are met, except as the applicant has specifically requested modifications to the standards as part of the PUD.

5. The proposed uses are not detrimental to the present and potential surrounding uses, nor are they detrimental to the health, safety and general welfare of the public and taking into account the physical features of the site, public facilities, and existing adjacent developments and uses.
6. The density of the planned unit development, when considered in its entirety shall be in substantial conformity with the density of the underlying zone. *(See KCC 5-3-4-5:M)*
7. The PUD meets the general objectives of the Kuna Comprehensive Plan.
8. Existing and proposed streets and utility services are suitable and adequate to the proposed development.
9. A development agreement is executed between the controller and the City which delineates commitments of the controller to the City and of the City to the controller, including but not limited to, assurances for public and private improvements and maintenance of same.

5-7-8: USE EXCEPTIONS

- A. Taking into account the Commission's findings and recommendations, the Council may authorize specific uses generally not permitted by the use regulations of the zone(s) in which the development is located and provided the use is in accordance with the adopted Comprehensive Plan. In granting such authorization, the Council shall make the following findings:
 1. The uses permitted by the exception are strongly related to the development's principal use and serve the purpose of providing services or facilities useful or complementary to the principle use.
 2. No more than 30 percent of the total area of the development shall be devoted to the mixed-uses permitted by the exception, unless the exception can satisfy a deficiency or goal in the Comprehensive Plan or Capital Improvement Plan and as approved by City Council on a case by case basis. The percentage of use exception allowed will be determined by the Commission and Council based upon the size of the project and intensity of the use exceptions. The 30 percent provision shall not apply to land dedicated for public use.
 3. The development will be phased so that construction of the excepted use or uses will be justified by construction of all or a proportionate amount of the primary use(s), with a minimum of 10 percent of the primary use initiated prior to the excepted use.
 4. The uses permitted by the exception are integrated into the overall project and relying on the following criteria:
 - a. Location within convenient walking distance of the primary uses.
 - b. Utilization of one or more of the primary uses main vehicular accesses as the primary access to the exception site or by means of an integrated connection to the exception site through a system of roadways and/or pathways.
 - c. Providing pedestrian and bicycle pathway connections with the primary use site.
 - d. Orienting buildings on the exception site to facilitate vehicular and/or pedestrian access from the primary use site.
 - e. A continuation of architectural themes and designs, landscaping, and building bulk concepts from the primary use into the use of the exception site so they are consistent, harmonious and thread throughout the PUD.
 - f. The uses permitted by the exception are neighborhood serving in size and character, and not detrimental to adjacent neighborhoods.

5-7-9: DEVELOPER INCENTIVES AND BENEFITS

- A. Planned unit developments are intended to provide particular benefits to the public and to the developer through the mixture of uses, variety of housing product, mixture of densities and integrated nature of the projects. Public benefit is ensured by the provision of public improvements and the amenities required by this

chapter and for infill developments by the increased efficiency of the use of land and public services. To provide incentive(s), the following development flexibilities may be incorporated into a PUD proposal:

1. Provides for a variety of mixed-uses and housing types.
2. The minimum lot size for each building and setbacks for buildings within the project may be reduced below those normally required for the zoning district, with the exception of peripheral boundaries, provided the reduction does not create health or safety issues and can satisfy utility easement considerations. *(See KCC 5-3-4-5:N)*
3. Uses not normally permitted in the zoning district may be allowed as part of a planned unit development, up to a maximum 30 percent as established in this Chapter and provided; the uses are in accordance with the Comprehensive Plan text and compatible with land uses in the immediate vicinity.
4. Buildings may be clustered to preserve scenic or environmentally sensitive areas in their natural state or to consolidate small open spaces into larger more usable areas for common use, enjoyment and economies of scale.
5. A residential density bonus may be given for dedications of land intended for public use such as a school, park, fire station or recreational facility provided to the public entity by donation or at a cost less than, or equal to, the developer's redevelopment cost for that land. *(See KCC 5-3-4-5:O)* The bonus shall not exceed 15 percent of the units permitted by the zone on the undedicated portion of the land. The Commission or director is authorized to establish a formula or rule of thumb for the level of bonus density provided. The dedication of land for public use may be credited to the 10 percent open space requirement, but shall not be credited more than 20 percent of the open space requirement, unless the dedication can satisfy a deficiency or goal in the Comprehensive Plan or Capital Improvement Plan and as approved by City Council on a case by case basis. Land dedicated for public use will need to be large enough in size and scope to accommodate the public service provider's need in order to qualify for dedication purpose.

5-7-10: OWNERSHIP REQUIREMENTS

A PUD application shall be filed by the controller.

5-7-11: COMMON OPEN SPACE

- A. *Required common open space:* A minimum 10 percent of the development's gross land area shall be set aside for open space purpose and mutually exclusive of the required residential buffer applications as applied to the development according to the City's adopted landscape plan. The dedication of land for public use may be credited to the 10 percent open space requirement, but shall not be credited more than 20 percent of the open space requirement, unless the dedication can satisfy a deficiency or goal noted in the City's Comprehensive Land Use Plan or Capital Improvement Plan, and approved by City Council on a case by case basis. *(See KCC 5-3-4-5:P)*
- B. Areas intended for storm water use, occupied by overhead high power lines, designated as Brownfield areas or possessing related health or safety conflicts, may not qualify as open space as determined by the Commission and/or the director.
- C. Maintenance: The responsibility for the maintenance of all open spaces shall be determined by the controller and the City before approval of the final development plan. Conditions of development approval shall include language that the open space not dedicated to the public entity shall be perpetually maintained pursuant to recorded CCR's addressing the method and manner of open space care and maintenance.

5-7-12: **UTILITY REQUIREMENTS**

Utility distribution and service facilities, including but not limited to telephone and electrical systems, shall be placed underground within the confines of the planned unit development. Any unavoidable above ground utility and service appurtenances must be effectively screened.

5-7-13: **INCREASED RESIDENTIAL DENSITY**

A. To assure development flexibility, the Planning and Zoning Commission may recommend increasing the residential density up to 15 percent of the allowable number of dwelling units according to the zone's underlying zoning density. (See KCC 5-3-4-5:Q) Increased density consideration shall be based on character, identity, architectural and siting variation incorporated in the development. The following shall be relied upon for determining level of bonus density.

1. Landscaping; streetscape; open spaces and plazas; use of existing landscaping; pedestrian way treatment; and recreational areas.
2. Siting visual focal points; use of existing physical features such as topography, view, sun and wind orientation; circulation pattern; physical environment; variation in building setback; and building grouping (such as clustering).
3. Design features; street sections; architectural styles; harmonious use of materials; parking areas broken by landscaping features; and varied use of housing types.

5-7-14: **ARRANGEMENT OF COMMERCIAL USE**

A. When the planned unit development includes commercial uses and structures it shall feature common parking areas and shared driveway accesses in order to reduce traffic conflicts. Landscape plantings or fence screening shall be provided along the perimeter of the PUD's commercial areas abutting residential in accordance with the City's landscape ordinance. (See KCC 5-17)

B. The standalone or mixed-use commercial development shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas.

C. All areas designed for future expansion, not intended for immediate improvement or development shall be landscaped as soon as weather permits and maintained in a neat and orderly manner.

5-7-15: **PROCEDURES FOR PUD APPROVAL**

A. When the PUD includes the subdividing of land, the processing of the special use permit and preliminary plat shall occur at the same time. The granting of a special use permit for a PUD shall require a pre-application conference and the submission of a preliminary development plan (concept plan). The preliminary development plan is a conceptual plan intended to show the Commission the proposed intent and use of the land. Approval of the conceptual plan does not constitute approval of the final development plan/plat.

B. A PUD is subject to a special use permit to include submittal of plans and information required by Title 6. The PUD is subject to the public hearing requirements noted in KCC 5-6-6 and 5 -1A.1.

C. If the PUD includes other land use applications they may be concurrently reviewed and considered.

D. The controller shall fill out the application form and provide all of the required documents, and information. The PUD application form is found on the internet at www.cityofkuna.com or can be obtained at the City of

Kuna Planning and Zoning Department. The application form itemizes the pertinent information that is required at the time of preliminary development plan submission.

5-7-16: **PRE-APPLICATION MEETING**

- A. A pre-application conference with the planning staff and other affected agencies is required prior to the submission of an application for a PUD. The purpose of this conference is to provide guidance to the controller in preparing their application. A draft site plan and preliminary plat map may be required for the pre-application meeting.

- B. The City staff and Fire Chief shall review the submitted plans and data and advise the developer as to the general conformance or nonconformance of the proposed development with the Kuna City Code Title 6: Subdivision Regulations.

5-7-17: **APPLICATION FOR APPROVAL OF A PRELIMINARY DEVELOPMENT PLAN**

- A. After the pre-application review, the controller may proceed with processing the preliminary development plan by paying all the required fees, filing a preliminary development plan along with other required applications and by providing the following information.

It should be noted, all drawings need to be signed and stamped by an engineer licensed to do work in Idaho with the exception of concept drawings and residential structures that do not require a licensed engineer's review.

- B. *Forty – four (44) copies or a number required by staff:* a **preliminary development plan**, which shall include drawings and supplementary written narrative materials to include:
 - 1. Sketches or illustrations portraying the proposed character of the development; and sketches or illustrations of items subject to design review;
 - 2. Description of how the PUD relates to surrounding land uses;
 - 3. Vicinity map identifying neighborhood features within a half-mile of the location;
 - 4. The nature of other land use actions requested;
 - 5. If the PUD involves a preliminary plat, include the number of phases and a description of each one;
 - 6. A narrative identifying and addressing the following: land use allocation by type, percentage, density, open space, roads, parking, housing, commercial or industrial uses, services provided and public or private ownership and other information that may be pertinent and or material.

- C. *Forty – four (44) copies or a number required by staff:* **Preliminary drawings** at a scale of 1" = 100' displaying the following:
 - 1. The name of the proposed PUD;
 - 2. Date, north point and scale of drawing and identity of the person(s) preparing the drawing;
 - 3. A boundary survey legal description of the PUD;
 - 4. Names, addresses and telephone numbers of the controller and any of the following involved in the project: architect, landscape architect, designer, engineer, planner and nurseryman;
 - 5. Date of survey and name of surveyor;
 - 6. Appropriate identification of the drawing(s) as a preliminary plan:

- D. *Forty - four (44) copies or a number required by staff:* a **natural features map** showing an inventory of existing site features including:
1. Ground elevations shown by contour lines at 2-foot intervals or less – 5-foot intervals may be accepted for slopes greater than 10 percent;
 2. General soil types as documented by a soils engineer or engineering geologist;
 3. *Hydrology:* Analysis of natural drainage patterns and water resources including an analysis of streams, natural drainage swales, wetlands, floodplain areas or other areas subject to flooding, poorly drained areas, permanent high ground water areas, and seasonally high ground water areas as they may be located on site or be affected by on-site activity.
 - a. Proposed and existing storm water facilities;
 - b. Water conveyance facilities;
 - c. Water features, such as ponds, wetlands and permanent or intermittent watercourses;
 - e. Areas subject to flooding;
 4. Natural features, such as trees, vegetation and ground cover, historic sites, major rock outcroppings, and similar type amenities;
 5. Sanitary sewer, storm drainage and water supply facilities. If such facilities are not on or abutting the site, indicate the direction and distance to the nearest such facilities;
 6. Width, location and purpose of all existing easements of record on/and abutting the site;
 7. A map describing land areas contiguous within 300 feet and adjacent to the proposed PUD, including zoning classifications, land uses, densities, circulation systems, public facilities, unique natural features, and approximate locations of nearby structures.
- E. *Forty - four (44) copies or a number required by staff:* a proposed **site plan** showing:
1. The locations of all existing and proposed dwelling units and/or individual lots;
 2. Location of major streets;
 3. The proposed yard requirements or locations of single family homes for individual lots,
 4. *The existing and proposed traffic circulation system serving the PUD including:* off-street parking and maneuvering, points of access to existing public rights-of-way, and a plan notation or descriptive narrative outlining ownership of streets and parking areas;
 5. The existing and proposed pedestrian and bicycle circulation system;
 6. Conceptual plans for all services including their location and whether the services will be publicly or privately owned and maintained, including the location of utilities connections. *Note: Any services intended to be privately owned (sewer, water, street, etc.) requires the City engineer's prior review and approval;*
 7. Proposed location and treatment of any public or private common areas or structures including open spaces, park or recreation areas, and school sites;
 8. The general landscape treatment proposed along the site's periphery and in accordance with provisions of the City's landscape ordinance;
 9. The approximate amount, location and type of buffering and/or landscaping;
 10. Proposed architectural styles;
 11. The subdivider may be required to submit proposed restrictive covenants, in outline form.
- F. Environmental assessment, traffic study, grading plan or other studies as may be appropriate for the proposed site as determined by the Commission or the director.
- G. If the applicant is requesting preliminary subdivision plat approval concurrent with the preliminary PUD approval, a **preliminary subdivision plat** shall be submitted along with the PUD conceptual site plan.

H. *Development schedule:* A development schedule indicating the approximate date on which construction of all phases of the entire project can be expected to begin. If the schedule is approved by the Commission it shall become a part of the final development plan.

I. Additional information as may be required by the City staff or Commission.

5-7-18: **PROCEDURE FOR PUBLIC NOTICE**

A. The same provision for hearing and legal notification as required for special use permits shall be followed. (See KCC 5-6-6)

5-7-19: **COMMISSION'S RECOMMENDATION OF A PRELIMINARY DEVELOPMENT PLAN**

A. The Commission shall review the preliminary development plan (conceptual plan) and supporting documents to determine if they are consistent with the intent and purpose of this Title; whether the proposed development advances the general welfare of the community and neighborhood, and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justifies the PUD application. The Commission shall make a recommendation to Council who makes the final determination whether or not the preliminary development plan application is sufficient and meets the City's goals and objectives.

B. The Council's approval in principle of the preliminary development plan shall be necessary before any applicant may submit a final development plan. Approval shall not be construed to endorse a precise location of use, configuration of parcels or engineering feasibility. The Council shall consider the general standards and criteria for special uses before approving, or denying the preliminary development plan.

5-7-20: **APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN**

A. Upon approval in principle of a preliminary development plan (conceptual plan), the final development plan application may be filed with the director by the controller for the entire PUD, or a final development plan for the first phase of development if it has been approved for a phased development. The application shall be signed by the controller attesting to the truth and exactness of all information supplied on the application for final development plan.

B. The application shall clearly state the approval expires and maybe revoked if construction on the first phase has not begun within two (2) years from the date of approval for those developments that are less than eighty (80) acres in area and their subsequent development phases will be according to an approved phasing plan. If the development is greater than eighty (80) acres in area, the controller will be provided thirty (30) months to construct the first phase. At the controller's discretion, a development greater than eighty (80) acres in area may be subject to PUD approval for the entire development, to include an approved phasing plan or a separate PUD for each phase. At a minimum, the application shall contain the following information.

C. The Final Development Plan may be submitted after City engineering approval of the detailed improvement plans that shall include street constructions, utility locations, drainage, dedications of easements and public facilities, along with a proposed phasing schedule. Maintenance agreements, etc., shall be prepared and submitted for review and approval at this time.

D. *Items that shall be included in the final development plan:*

1. Drawings and information: The **final development plan** shall be provided in the following formats: One (1) large 24" x 36" print of the plan with signature page made of good quality tracing paper or Mylar® drafting film; one (1) large 24" x 36" print on white paper and one (1) 11" x 17" print on white paper.
2. Information required on the plan. In addition to that required by the preliminary development plan, or otherwise specified by law, to include the following:
 - a. Reference points of identified existing surveys related to the PUD plan by distances and bearings and referenced to field book or map, including stakes, monuments or other evidence found on the ground and used to determine the boundaries of the PUD.
 - b. The location and width of streets and easements intercepting the boundary of the tract.
 - c. Easements and storm water drainage facilities clearly identified and, if already of record, their recorded reference. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the PUD shall be shown. If the easement is being dedicated by the plan, it shall be properly referenced in the owner's certificates of dedication.
 - d. Identification of land to be dedicated for any purpose, public or private.
 - e. Other plans and studies as required at preliminary approval such as a grading plan, soils engineer report, traffic study, detailed landscaping and buffering plans where required.
3. *Additional certificates or drawings:*
 - a. A certificate signed and acknowledged by all parties having any recorded title interest in the land, consenting to the preparation and recording of the PUD.
 - b. Signed acknowledgement that if the final approval is granted, a written instrument dedicating the land intended for public use shall be tendered and recorded to make the final approval effective.
 - c. A certificate with the seal of and signed by the surveyor responsible for the survey.
 - d. A title report issued by a title insurance company verifying ownership of all real property that is to be dedicated to the public.
 - e. A copy of any deed restrictions applicable to the PUD.
4. *A detailed design/site plan for the PUD site including:*
 - a. The location of proposed buildings and structures, parking and maneuvering areas and/or the location of allowable building areas of individual lots;
 - b. Building setback lines that are to be made part of the PUD restrictions;
 - c. The location and type of proposed buildings, structures or improvements in common open space areas;
 - d. Preliminary building plans, including floor plans and exterior elevations;
 - e. The location and detailed information for all proposed streets, with ACHD approval for public streets and City and Fire Marshal approval for private streets;
 - f. Approved engineering feasibility studies and plans showing water, fire hydrant, sanitary sewer, storm water drainage, electricity, telephone and natural gas installations; waste disposal facilities, and street improvements;
 - g. Plans for additional improvements such as pedestrian ways, street lighting, public utilities, street trees, etc.
5. A schedule of development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development, whenever the applicant proposes an exception from standard zoning districts or other ordinances governing development.

6. A **landscaping and buffering plan** for common open space areas, the periphery of the PUD and other required locations. The plan shall show area to remain in natural vegetation; and, in a clear manner, the area, sizes, numbers and general types of plant and other materials to be used. Re-vegetation of common open space areas and periphery areas disturbed during the construction of services. An improvement guarantee of a sufficient amount shall be required to assure timely completion if the work cannot be completed prior to occupancy of dwellings or as otherwise required by the conditions of approval.
7. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.

5-7-21: **COMMISSION RECOMMENDATION ON FINAL DEVELOPMENT PLAN**

- A. The Commission shall recommend to the Council approval, approval with modifications, or disapproval of the final development plan. The Commission shall base an approval on evidence that the final development plan fulfills the requirements of the preliminary PUD approval and all applicable requirements of this Title have been met.
- B. *The Commission shall find that the facts submitted with the application and presented to them establish that:*
 1. Construction of the proposed development shall be initiated according to the timeframes noted in KCC 5-7-20:B.
 2. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard zoning district regulations.
 3. The proposed public rights-of-way are suitable and adequate to carry anticipated traffic. The additional traffic loading on the surrounding street network system will not exceed the street's carrying capacity as measured through the level of service (LOS) determined for roadways.
 4. Any proposed commercial development may be justified, in terms of compatibility, integration and support of the primary use at the location(s) proposed.
 5. Any modification from City code provisions is warranted by the design and other amenities incorporated in the final development plan.
 6. The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development.
 7. The planned unit development is in general conformance with the Comprehensive Plan.
 8. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

5-7-22: **COUNCIL ACTION ON FINAL DEVELOPMENT PLAN**

- A. The Council shall approve, approve with modifications or disapprove the final PUD plan and the final subdivision plat or phasing proposal where applicable. Approval of the final plan shall constitute the requirements for the land, in the PUD. Any material changes sought by the controller must be evaluated by the Planning and Zoning Commission and approved by the Council, except as noted in KCC 5-7-25:A.
- B. The Council shall specify the reason(s) for granting or denying the application to include reliance on the following criteria:
 1. The ordinance and standards used in evaluating the application;
 2. The reason(s) for approval or denial; and

3. The actions, if any, that the controller could take to obtain approval (in the circumstance where the application is denied);
4. If the application is either approved or approved with conditions, the Council shall direct the issuance of zoning permits in accordance with the approved final development plan and the supplementary conditions attached.

5-7-23: **FINAL DEVELOPMENT PLAN APPROVAL PERIOD**

- A. The approval of a PUD's final development plan shall be according to the timeframes noted in KCC 5-7-20:B to allow for preparation and recording of the required subdivision plat and the development of the project. If the development effort has not been diligently pursued during the allocated timeframe the development plan shall become null and void.
- B. All phases of the planned unit development shall be completed in accordance with a timeline contained in a development agreement; any default in the development agreement by the controller may, at the election of the City, void approval of phases not yet under construction. Time extensions may be obtained through modifications of the development agreement.

5-7-24: **IMPROVEMENT GUARANTEES**

- A. Prior to issuance of building permits for structures, the applicant shall either install and complete all private service improvements, including streets, pedestrian ways, utilities, landscaping and buffering, or file an improvement guarantee for these items.
- B. The improvement guarantee is an agreement between the applicant and City specifying a development schedule setting forth when service improvements will be made.
- C. The agreement shall be in a form satisfactory to the City attorney, and shall be filed with the City clerk.
- D. The applicant shall file with the agreement one of the following to assure their full and faithful performance:
 1. Certified check;
 2. An irrevocable letter of credit issued by a financial institution authorized to do business in the state of Idaho;
 3. Other surety acceptable to the City.

5-7-25: **AMENDMENTS TO THE FINAL DEVELOPMENT PLAN**

- A. Any subsequent amendment to the final development plan changing location, siting, and height of buildings and structures may be authorized by the Commission without additional public hearings, if required by engineering or other circumstances not foreseen at the time the final plan was approved. In no case shall the Commission authorize changes without additional public hearings, which may cause any of the following:
 1. A change in the use or character of the development, including ownership.
 2. An increase in overall coverage of structures or significant changes in types of structures.
 3. An increase of the intensity of use or types of usage.
 4. An increase in the problems of traffic circulation and public utilities.
 5. A reduction of off-street parking and loading space.
 6. A reduction in required pavement widths.

B. All other changes in use, rearrangement of lots, blocks and building tracts, or in the provision of common open spaces and changes in addition to those listed above, which constitute substantial alteration of the original plan shall require a public hearing before the Commission and approval by the Council.

Ordinance Section 2. Higher Standard. Should this Chapter contain language that suggests different standards of application or competing assessments; the more restrictive language shall be relied upon for interpretive purpose.

Ordinance Section 3. Severability. If some provision of the law or certain application of these provisions are found to be unconstitutional. The remaining provisions, or the remaining applications of these provisions, will, nonetheless, continue in force as law.

Ordinance Section 4. Full Force and Effect. This Ordinance shall be in full force and effective from and after its passage, approval and publication as required by law.

CITY OF KUNA
ADOPTED this 20th day of December, 2011

CITY COUNCIL OF THE CITY OF KUNA
Ada County, Idaho

J. SCOTT DOWDY, MAYOR
CITY OF KUNA

ATTEST:

BRENDA BINGHAM, CITY CLERK
CITY OF KUNA