

ORDINANCE NO. 3426

(ZOA-17-880807 – Development Code – Amend Section 19.4.5 and Subsection 19.6.4.D)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 – HENDERSON DEVELOPMENT CODE - BY AMENDING PORTIONS OF SECTION 19.4.5 – PLANNED UNIT DEVELOPMENT OVERLAY (PUD) AND SUBSECTION 19.6.4.D – REZONINGS TO MP OR PUD OVERLAY, OF THE HENDERSON MUNICIPAL CODE; TO MAKE VARIOUS CORRECTIONS, REVISIONS AND UPDATES AS NECESSARY.

WHEREAS, it is the intent of the City of Henderson to maintain a zoning ordinance for the safe and orderly development of property; and

WHEREAS, the City of Henderson adopted a new zoning ordinance on January 19, 2010; and

WHEREAS, a zoning ordinance is considered a “living document” and will invariably need amending to make minor corrections, revisions, and updates as necessary; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Section 19.4.5 – Planned Unit Development Overlay (PUD) and Subsection 19.6.4.D – Rezoning to MP or PUD Overlay, are hereby amended as represented in Exhibit A, consisting of ten (10) pages, hereto attached.

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

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clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on August 4, 2017, in the Review Journal.

PASSED, ADOPTED, AND APPROVED THIS 1ST DAY OF AUGUST, 2017.



Debra March, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on July 18, 2017, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on August 1, 2017, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held August 1, 2017, the Ordinance was read in title and adopted by the following roll call vote:

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

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



Debra March, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

Exhibit A

Section 19.4.5 – Planned Unit Development Overlay (PUD) and
Subsection 19.6.4.D – Rezoning to MP or PUD Overlay

19.4.5 – Planned Unit Development Overlay (PUD)

A. PURPOSE

The Planned Unit Development Overlay (PUD) is intended to encourage innovative land planning and site design concepts that achieve a high level of environmental sensitivity, energy efficiency, aesthetics, high-quality development, and other community goals by:

1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
2. Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
3. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses;
4. Requiring compliance with development standards that reflect the high level of public investment in adjoining lands; and
5. Accommodating neo-traditional (Traditional Neighborhood Development) designs.

B. DEVELOPER'S STATEMENT OF INTENT

Each application for approval of a ~~[planned-unit-development]~~ PUD shall include a statement by the applicant describing how the proposed development departs from the otherwise applicable standards of this Development Code and how the proposed development, on balance, is an improvement over what would be required under otherwise applicable development regulations.

C. REVIEW AND APPROVAL PROCEDURES

The review and approval procedures for ~~[planned-unit-development]~~ PUDs are set out in Section 19.6.4.D.

D. STANDARDS OF GENERAL APPLICABILITY

The standards of this subsection shall apply to all ~~[planned-unit-development]~~ PUDs unless otherwise expressly provided.

1. Allowed Uses

- (a) ~~[Residential]~~ Planned Unit Residential Developments as defined in NRS 278A.070.
- (b) The following uses may be allowed if approved as part of a ~~[planned-unit-development]~~ PUD that is located in a residential base zoning district, so long as the use is permitted in the underlying base district:
 - (1) Detached and attached single-family homes (including mobile and modular homes in trailer estates).
 - (2) Multifamily residences, including multi-story residential structures.
 - (3) Day care, including limited, large-family, and general facilities.
 - (4) Religious assembly.
 - (5) Accessory buildings and structures.
 - (6) Circulation and parking facilities including lots and garages supporting the ~~[planned-unit-development]~~ PUD.
 - (7) Signs including public and private street identification signs.
 - (8) Streetlighting and street furniture.
 - (9) Underground utilities.
 - (10) Other residential and supporting uses expressly approved as part of the ~~[planned-unit-development]~~ PUD.
- (c) ~~[Nonresidential]~~ Planned Unit Developments in Nonresidential Base Zoning Districts.

Only uses permitted in the underlying base zoning district shall be allowed in ~~[planned-unit-development]~~ PUDs that are located in nonresidential base zoning districts.

2. Size

There shall be no minimum or maximum size requirement for ~~[planned-unit-development]~~ PUDs.

3. Density

19.4.5 – Planned Unit Development Overlay (PUD)

The maximum residential density permitted within a ~~[planned-unit-development]~~ PUD shall be that of the zoning district in which the planned unit development is located.

4. Development Standards and Modifications

Unless otherwise expressly allowed by this section and approved by the City Council during the PUD approval process, ~~[planned-unit-development]~~ PUDs shall be subject to all applicable standards of this Development Code, including those of the underlying base zoning district. In order to approve modifications of otherwise applicable standards, the City Council must find that:

- (a) Deviations from applicable base district or subdivision design standards that otherwise would apply are justified by compensating benefits of the ~~[planned-unit-development]~~ PUD that are provided in accordance with Section 19.7.11, Compensating Public Benefits.
- (b) The ~~[planned-unit-development]~~ PUD includes adequate provisions for utility services and emergency vehicle access.

5. Setbacks

Setbacks shall be provided in accordance with the underlying zoning district standards unless another minimum setback is expressly approved as part of the ~~[planned-unit-development]~~ PUD approval.

6. Signs

Unless otherwise expressly provided in this Development Code, ~~[planned-unit-development]~~ PUDs shall be subject to the sign regulations of Section 19.6.7.

7. Landscaping

Unless otherwise expressly provided in this Development Code, ~~[planned-unit-development]~~ PUDs shall be subject to the landscaping and buffer regulations of Section 19.7.5, Landscaping and Screening.

8. Parking

~~[planned-unit-development]~~ PUDs shall be subject to the off-street parking and loading standards of this Development Code.

9. Common Open Space

(a) Minimum Requirements

All ~~[planned-unit-development]~~ PUDs that include residential dwelling units shall provide common open space in accordance with Section 19.7.2, Common Open Space.

(b) Management

A ~~[planned-unit-development]~~ PUD that includes common open space shall be subject to NRS 278A.130 to 278A.190, inclusive.

10. Compliance with Zoning District Standards

Unless otherwise specified in the approval of the ~~[planned-unit-development]~~ PUD, once initial construction is complete, all subsequent development and construction shall be governed by the underlying zoning district regulations unless otherwise specified in the original approval.

D. [REZONINGS] TO MP OR PUD OVERLAY

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

1. Rezoning to MP Overlay

[1](a) Concept Plan Review

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

[2](b) Neighborhood Meeting

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

[3](c) Application

[a](1) Master Plan Required for Rezoning to MP Overlay

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

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

~~[(b)]~~(2) Filing

Applications for MP ~~[or PUD]~~ rezoning approval shall be submitted to the Community Development and Services Director.

~~[4.]~~ (d) Public Hearing Notice

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

~~[5.]~~(e) Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed MP ~~[or PUD]~~ rezoning in light of the applicable approval criteria of Section 19.6.4.D.~~[8]1(h)~~, *Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

~~[6.]~~(f) Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed ~~[master plan or PUD]~~ MP rezoning and, within 60 days of the date of the public hearing, make a recommendation to the City Council, based on Section 19.6.4.D.~~[8]1(h)~~, *Approval Criteria*.

~~[7.]~~(g) City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed MP ~~[or PUD]~~ rezoning based on the approval criteria of Section 19.6.4.D.~~[8]1(h)~~, *Approval Criteria*.

19.6.4.D – Rezoning to MP or PUD Overlay

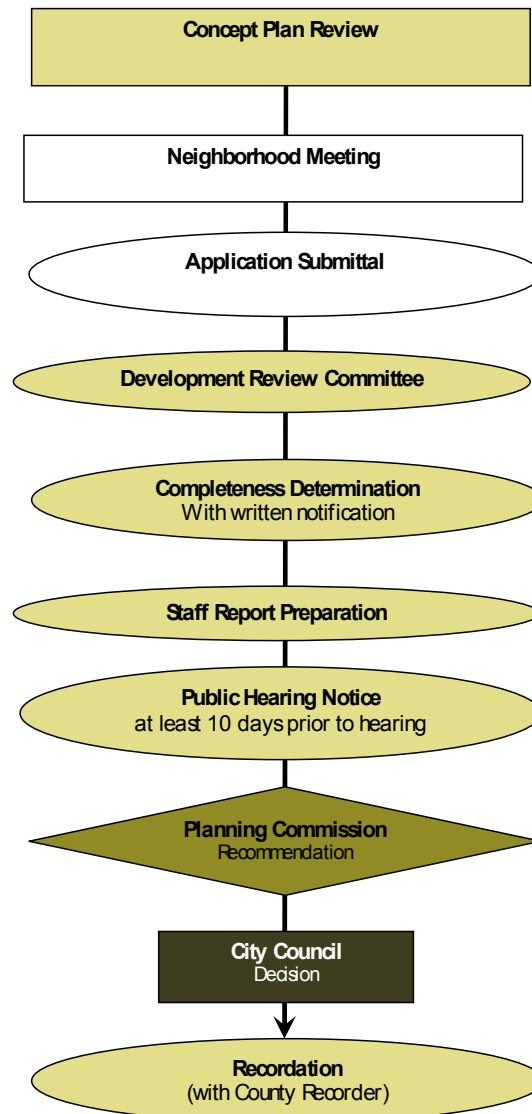


FIGURE 19.6.4–D: SUMMARY OF THE PROCESS FOR REZONINGS TO THE MP OR PUD OVERLAY

[8-](h) Approval Criteria

A ~~[master plan or PUD]~~ MP rezoning may be approved only if the City Council finds that all of the following criteria have been met:

[a)]1. The proposal is consistent with the Comprehensive Plan;

[b)]2. The planned development addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or

development standards. Such improvements in quality may include, but are not limited to: improvements in common open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;

~~[(e)]~~3. The planned development complies with the applicable standards of Section 19.4.4, Master Plan Development Overlay~~[, or Section 19.4.5, Planned Unit Development Overlay];~~

~~[(d)]~~4. The proposal mitigates any potential significant adverse impacts to the maximum practical extent;

~~[(e)]~~5. Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development; and

~~[(f)]~~6. The same development could not be accomplished through the use of other techniques, such as rezonings, variances, or administrative adjustments.

~~[(8-)]~~(i) Conditions of Approval

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

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

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

~~[(9-)]~~(j) Appeals

~~[Appeals of City Council decisions on master plans or PUD rezonings shall be made to the District Court of Clark County, as provided by law.]~~
Appeals shall be made in accordance with Section 19.6.9.E, *Appeals*.

~~[10-]~~(k) Recordation

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

~~[11-]~~(l) Amendments to an Approved Master Plan ~~[or Planned Unit Development]~~

Any request for amendment to an approved MP ~~[or PUD]~~ that increases the number of dwelling units, increases the project's density, increases the number of building lots, decreases the amount of common open space, alters a road pattern, or requests new waivers of Code requirements shall be initiated and processed in the same manner as a new application.

~~[(a)]~~(1) However, if the Community Development and Services Director determines that the requested changes are, in his or her discretion, minor and do not include substantial alterations to the MP ~~[or PUD]~~ conditions of approval, and are consistent with the intent of the original approval, the Community Development and Services Director may approve the changes.

~~[(b)]~~ The following are provided as illustrative examples of the types of amendments that the Community Development and Services Director may reasonably consider to be minor with respect to an approved MP:

~~[(1)]~~(i) Changes in the size of a particular use;

~~[(2)]~~(ii) Changes in the height of a proposed use;

~~[(3)]~~(iii) _____ Changes in the housing mix or use-mix ratio; or

- ~~[(4)]~~(iv) Changes that do not result in a change in the character of the development, or the development's relationship with adjacent lands.

2. Rezoning to PUD Overlay

(a) Concept Plan Review

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

(b) Neighborhood Meeting

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

(c) Application

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

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

- (i) The location and size of the site and the nature of the landowner's interest in the land proposed to be developed;
- (ii) The density of land use to be allocated to parts of the site to be developed;
- (iii) The location and size of any common open space and the form of organization proposed to own and maintain any common open space;
- (iv) The use and the approximate height, bulk and location of buildings and other structures;
- (v) The ratio of residential to nonresidential use;
- (vi) The feasibility of proposals for disposition of sanitary waste and storm water;

- (vii) The substance of covenants, grants, easements or other restrictions proposed to be imposed upon the use of the land, buildings, and structures, including proposed easements or grants for public utilities;
- (viii) The provisions for parking of vehicles and the location and width of proposed streets and public ways;
- (ix) The required modifications in the site standards otherwise applicable to the subject property and
- (x) In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the PUD are intended to be filed.

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

(2) Filing

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

(d) Public Hearing Notice

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

(e) Community Development and Services Director Review and Report

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

(f) Planning Commission Review and Recommendation

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

(g) City Council Review and Decision

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

(h) Approval Criteria

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

1. The proposal is consistent with the Comprehensive Plan;
2. The PUD addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in common open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;
3. The planned development complies with the applicable standards of Section 19.4.5, Planned Unit Development Overlay;
4. The proposal mitigates any potential significant adverse impacts to the maximum practical extent;

5. Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development; and
6. The same development could not be accomplished through the use of other techniques, such as rezonings, variances, or administrative adjustments;
7. In what respects the plan is or is not consistent with the statement of objectives of a PUD;
8. The extent to which the plan departs from zoning and subdivision regulations, otherwise applicable to the property, including but not limited to density, bulk, and use, and the reasons why these departures are or are not deemed to be in the public interest;
- 9. The ratio of residential and nonresidential use in the PUD;
10. The purpose, location and amount of the common open space in the PUD, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
11. The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
12. The relationship, beneficial or adverse, of the proposed PUD to the neighborhood in which it is proposed to be established; and
13. The case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public, residents and owners of the PUD in the integrity of the plan.

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

(i) Conditions of Approval

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

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

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

(j) Final Approval of a Planned Unit Development

(1) Staff may approve a final PUD, and a public hearing on an application for final approval of a PUD is not required, if the plan is in substantial compliance with the plan given tentative approval, meaning it does not:

(i) Vary the proposed gross residential density or intensity of use;

(ii) Vary the proposed ratio of residential to nonresidential use;

(iii) Involve a reduction of area set aside for common open space or the substantial relocation of such area;

(iv) Substantially increase the floor area proposed for nonresidential use; and/or

(v) Substantially increase the total ground areas covered by buildings or involve a substantial change in the height of buildings.

(2) A public hearing need not be held to consider modifications in the location and design of streets or facilities for water

and for disposal of storm water and sanitary sewage on an application for final PUD.

- (3) If the proposed final PUD plan is not in substantial compliance with the tentatively approved PUD plan, the procedures set forth in NRS 278A.550 shall apply.

(k) Appeals

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

(l) Recordation

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

(m) Amendments to a Finally Approved Planned Unit Development

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

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

- (2) At the public hearing approving an amendment under subsection (1), the Planning Commission must determine

that the modification, removal or release of the provisions of the plan:

(i) Is consistent with the efficient development and preservation of the entire PUD;

(ii) Does not adversely affect either the enjoyment of land abutting upon or across a street from the PUD or the public interest and

(iii) Is not granted solely to confer a private benefit upon any person.

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

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

(n) Variances from a Finally Approved Planned Unit Development

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