



**CITY OF TRINIDAD  
TRINIDAD, COLORADO**

The City Council will hold its regular Work Session on  
Tuesday, April 23, 2013 following a Special Meeting at 1:30 p.m.  
City Hall Council Chambers, Third Floor, City Hall

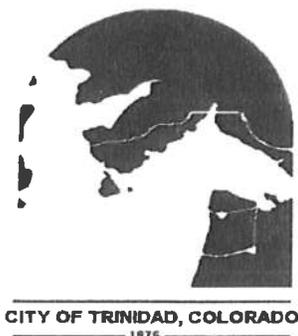
**AGENDA**

1. Petitions and Communications, Oral or Written
2. Consideration of Water Rights Lease and Revegetation Agreement – Jim Fernandez, Utilities Superintendent
3. Consideration of work agreement with A-E Design for Monument Lake Fish Hatchery and Zoo National Register Nomination and Construction Documents – Karen Wolf, Assistant City Planner
4. Consideration of Planned Unit Development Code of Ordinances Amendment – Louis Fineberg, Planning Director
5. Discussion of other agenda items

**The City Council and the Las Animas County Board of County Commissioners  
will hold a Joint Work Session on Tuesday, April 23, 2013 at 3:00 p.m.  
City Hall Council Chambers, Third Floor, City Hall**

**AGENDA**

1. Discussion regarding joint projects
2. Discussion of other items



## Council Communication

City Council Meeting: April 2013 Work Session

Prepared: April 4, 2013

Dept. Head Signature:

# of Attachments: One (1)

**SUBJECT:** Water Rights and Lease and Revegetation Agreement

**Presenter:** Utility Superintendent, James Fernandez

**Recommended City Council Action:** Review and Schedule for Regular Council Meeting

**Summary Statement:** The purpose of this agreement is to authorize a lease of water rights to Mr. Albert Blasi, which will expire on October 31, 2013, to allow for native grass revegetation and dry-up of the farmland. The City has already acquired a decree in water court to utilize the Blasi water rights for municipal purposes pending dry-up.

**Expenditure Required:** None

**Source of Funds:** N/A

**Policy Issue:** N/A

**Alternative:** N/A

**Background Information:** The City purchased certain water rights from Albert Blasi on January 8, 2002, filed for a change of water rights on September 28, 2006, and approved on November 25, 2012. The water rights consist of 0.538 c.f.s., priority No. 13 and 0.86 c.f.s. priority No. 20. The City has leased the water rights back to Mr. Blasi since the 2002 date. However, we are now ready to initiate dry-up of the land so that we can make full use of these agricultural rights we purchased into Trinidad Reservoir for the municipal purposes which include domestic, commercial, manufacturing, industrial, agricultural, watering of parks and gardens, fire protection, generation of electric power, recreation, fish and wildlife propagation, sewage treatment, street sprinkling, maintenance of storage reserves, replacement, augmentation and exchange. These water rights enhance the overall portfolio of water rights owned by the City of Trinidad.

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Richard N. Lyons, II  
Jeffrey J. Kahn  
John Wade Gaddis  
Bradley A. Hall  
Steven P. Jeffers  
Anton V. Dworak  
Adele L. Reester  
Catherine A. Tallerico  
Scott E. Holwick

Lyons Gaddis Kahn & Hall  
A Professional Corporation  Attorneys and Counselors

Eve I. Canfield  
Matthew Machado  
Madoline Wallace-Gross  
Chad A. Kupper  
Blair M. Dickhoner

Daniel F. Bernard  
(1942-2011)

March 4, 2013

Albert Blasi  
42331 C.R. 40.7  
Trinidad, CO 81082

Re: *2013 Water Rights Lease and Revegetation Agreement*

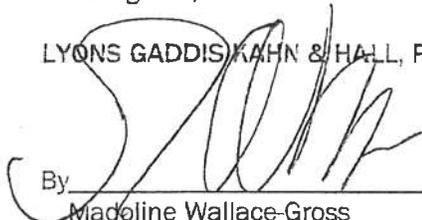
Dear Albert:

Please find enclosed for your consideration a *Water Rights Lease and Revegetation Agreement* between you, Phyllis and the City of Trinidad for the 2013 irrigation season. If you find it acceptable, please sign where indicated before a notary public and return the signed lease to the City's water utilities department. The Town will then sign the lease and mail you a copy.

Thank you, and please call or email with questions or comments.

Best regards,

LYONS GADDIS KAHN & HALL, PC

By 

Madoline Wallace-Gross

[mwallace-gross@lgkhlaw.com](mailto:mwallace-gross@lgkhlaw.com)

MWG

Enclosure

cc: J.Fernandez (w/ enclosure)  
L.Vigil (w/enclosure)  
G.Thompson (w/enclosure)

## WATER RIGHTS LEASE AND REVEGETATION AGREEMENT

This Water Rights Lease and Revegetation Agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, between the City of Trinidad, Colorado, hereinafter referred to as "City" and Albert Anthony Blasi and Phyllis E. Blasi, hereinafter referred to as "Lessee".

WHEREAS, the City is the owner of 43% of the 1.25 c.f.s. Lewelling-McCormick Ditch water right (Priority No. 13) and 43% of the 2.0 c.f.s. Hoehne Ditch water right (Priority No. 20) (collectively "water rights"), both of which are decreed for diversion from the John Flood Ditch; and

WHEREAS, the City purchased the water rights from Lessee by a Special Warranty Deed recorded in Las Animas County, Colorado at Reception No. 200200656759 and Book 1011, Page 1641 on January 8, 2002; and

WHEREAS, the water rights were historically used to irrigate acreage on Parcel No. 11 ("historically irrigated acreage"), identified on the John Flood Ditch Irrigated Area Map recorded in Las Animas County, Colorado at Reception No. 587906 and Book 872, Page 463 on March 29, 1990, which includes portions of Sections 6 and 7, Township 32 South, Range 62 West of the 6<sup>th</sup> P.M.

WHEREAS, Lessee conveyed to the City a Dry Up Covenant, recorded in Las Animas County, Colorado at Reception No. 200200656760 and Book 1011, Page 1642 on January 8, 2002, which authorizes the City to permanently dry up the historically irrigated acreage.

WHEREAS, since 2002, the City has leased the water rights back to Lessee for the irrigation of the historically irrigated acreage.

WHEREAS, the City desires to permanently dry up the historically irrigated acreage so the City can utilize the water rights for municipal purposes, pursuant to the decrees entered in Case Nos. 88CW61 and 06CW78, District Court, Water Division No. 2.

WHEREAS, the City desires to lease the water rights to Lessee for the sole purpose of revegetating the historically irrigated acreage.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, it is mutually agreed by and between the parties as follows:

1. **TERM OF AGREEMENT.** The City hereby leases to Lessee the water rights for a period of one (1) water year, which began on November 1, 2012 and will end on October 31, 2013. This Agreement may be renewed for succeeding one-year periods by mutual consent of the parties, if revegetation as specified below in paragraph 4 has not been accomplished. Lessee acknowledges that, upon termination of this Agreement, the historically irrigated acreage shall be permanently removed from irrigation.

2. **TRINIDAD PROJECT.** Lessee acknowledges that the water rights are operated as part of the Trinidad Reservoir Project ("Project") are subject to: the Project's Operating Principles

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and Operating Criteria; the Purgatoire River Water Conservancy District's ("District") contract with the Johns Flood Ditch Company ("Ditch Company"); and the District's rules and regulations. Lessee acknowledges that delivery of water shall be pursuant to Project administration by the District and/or priority administration under the water rights' priorities by the Office of the Colorado State Engineer.

3. **RENTAL FEE.** The water rights are equal to 51 equivalent shares of the Ditch Company and are used to irrigate 88 acres within the District. The rental fee paid by Lessee to the City shall be the amount assessed by the Ditch Company against 51 equivalent shares under priority administration and/or against 88 acres under Project administration for the water year ending October 31, 2013. Lessee shall pay the rental fee to the City within thirty (30) days of the receipt of the notice of assessment from either the Ditch Company or the City, even if such payment is due after the expiration of the Agreement.

4. **REVEGETATION.** During the term of this Agreement, Lessee shall remove by herbicide spray or other suitable method all deep-rooted irrigated plants, including but not limited to alfalfa, from the historically irrigated acreage. During the term of this Agreement, Lessee shall revegetate the historically irrigated acreage with native grasses, including blue grama grass, western wheatgrass and side oats grama grass, which have shallow root systems that will rely upon precipitation, soil moisture or shallow groundwater, that do not reach to the groundwater table, and that will not require irrigation water once established. During the term of this Agreement, Lessee shall use the water rights only for the purpose of establishing the revegetation.

5. **NO ASSIGNMENT.** This Agreement shall not be assigned without written prior approval of the City.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**CITY OF TRINIDAD, COLORADO**

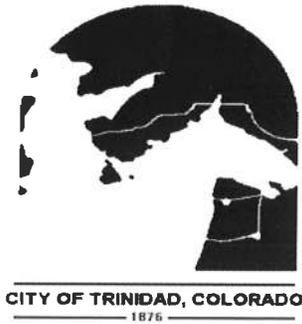
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

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## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** April 23, 2013  
**PREPARED BY:** Karen Wolf, Assistant Planner  
**DEPT. HEAD SIGNATURE:**  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Work Agreement with A-E Design for Monument Lake Fish Hatchery & Zoo National Register Nomination & Construction Documents

**PRESENTER:** Karen Wolf

**RECOMMENDED CITY COUNCIL ACTION:** Approval of Work Agreement

**SUMMARY STATEMENT:** A-E Design is the historic preservation specialist chosen to complete the Monument Lake Project funded by a State Historic Fund grant.

**EXPENDITURE REQUIRED:** \$12,660 (Cash match by City, approved Sept. 2012.)

**SOURCE OF FUNDS:** Capital Improvements

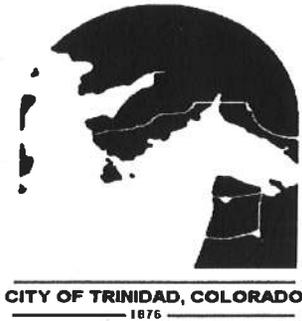
**POLICY ISSUE:** Work Agreement with Professional Consultant

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- State Historic Fund grant award was announced in December, 2012. Award is for \$29,540 with a City cash match of \$12,660, for a total project cost of \$42,200.
- Contract with State Historic Fund was approved in March, 2013.
- The purpose of the Monument Lake Fish Hatchery & Zoo National Register Nomination & Construction Documents project is to prepare the National Register nomination and construction documents for the preservation, restoration and rehabilitation of the site.

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## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** April 23, 2013  
**PREPARED BY:** Louis Fineberg, Planning Director  
**DEPT. HEAD SIGNATURE:**  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Planned Unit Development Code of Ordinances Amendment

**PRESENTER:** Louis Fineberg

**RECOMMENDED CITY COUNCIL ACTION:** Adoption of the Amendment.

**SUMMARY STATEMENT:** Proposed amendments to Chapter 14, Division 11 (Zone District Regulations for the PUD-Planned Unit Development District) of the City of Trinidad Code of Ordinances.

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** PUD Ordinance.

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- Changes to the PUD Ordinance include the following topics:
  - Additional conditional uses, Section 14-74.
  - Increase of parkland cap, Section 14-76.4.b.
  - Traffic Report approval procedures, Section 14-76.6.
  - Language addition to Review and approval, Section 14-78.4.
  - Revoking approval process, Section 14-79.1.
  - Zoning review process, Section 14-80

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**DIVISION 11. ZONE DISTRICT REGULATIONS FOR THE PUD - PLANNED UNIT DEVELOPMENT DISTRICT.****Section 14-72. Purpose.**

The planned unit development district is enacted pursuant to the Planned Unit Development Act of 1972, as amended (§ 24-67-101, et seq., C.R.S.), to provide an alternative to the conventional approach to zoning by permitting flexibility and innovation in design, density, functional uses, placement of buildings, provision of parks and open space, circulation patterns, common facilities, signage and off-street parking areas, and to encourage a more creative approach to development and redevelopment in Trinidad. (Ord. 1897, eff. 5-14-10)

**Section 14-73. Uses permitted by right.**

Unless explicitly specified in an ordinance to establish or revise a specific planned unit development, the following uses shall be permitted by right (Ord. 1897, eff. 5-14-10):

- (1) Single-family dwellings.
- (2) Multi-family dwellings.
- (3) Mobile home parks and mobile home subdivisions, provided the planned unit development district contains a mixture of uses including modular dwellings and multi-family dwellings in addition to mobile homes.
- (4) Business, professional and semi-professional offices.
- (5) Medical clinics and pharmacies operated in conjunction with a clinic.
- (6) Retail specialty or boutique shops including businesses offering personal services.
- (7) Community service agency.
- (8) Day nursery.
- (9) Buildings and uses customarily incident to the uses permitted by this district.

**Section 14-74. Conditional uses.**

Unless explicitly specified in an ordinance to establish or revise a specific planned unit development, the following uses shall be permitted as conditional uses to be approved separately by the Planning Commission (Ord. 1897, eff. 5-14-10):

- (1) Lodging establishments.

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(2) Convention centers and public gathering spaces.

(3) Museums, theaters and/or similar uses.

(4) Restaurants, taverns and similar uses.

(5) All businesses and retail uses that are not permitted by right and not prohibited by the City of Trinidad.

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(1)(6) \_\_\_\_\_ Churches and schools or other public or other semi-public uses.

(2)(7) \_\_\_\_\_ Wholesaling of products, provided storage space does not exceed one thousand five hundred (1,500) square feet.

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(3)(8) \_\_\_\_\_ Fabrication or assembling incidental to retail sales from the premises, provided that not more than twenty-five percent (25%) of the floor area occupied by such businesses is used for manufacturing, processing, assembling, treatment installation, and repair of products.

(4)(9) \_\_\_\_\_ Any kind of scientific research or manufacture, compounding, assembling, processing, fabrication, packaging or treatment of products, manufacturing or processing industries.

(5)(10) \_\_\_\_\_ Mortuary or embalming establishment or school.

(6)(11) \_\_\_\_\_ Mini-warehouses, which must be in accordance with Section 14-103 of Division 14.

(7)(12) \_\_\_\_\_ Wireless telecommunications towers and facilities, which must be in accordance with Article 8 of Chapter 14.

(8)(13) \_\_\_\_\_ Electric substations and gas regulator stations.

(9)(14) \_\_\_\_\_ Fire stations, police stations and telephone exchanges.

(10)(15) \_\_\_\_\_ Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.

**Section 14-75. Maximum density, height and area regulations.**

A. The residential density of a planned unit development district shall be set forth in the ordinance establishing or revising the planned unit development district. The overall

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average density of the total residential area within any planned unit development district shall not exceed twenty-five (25) dwelling units per acre of residential area.

- B. The minimum area for any newly created free-standing planned unit development district is one (1) acre.
- C. Except as provided in Section 14-101, the height and area regulations for uses within a planned unit development district are as follows:
  - (1) No detached single family dwelling shall exceed two and one-half (2 1/2) stories, or twenty-five feet (25') in height.
  - (2) No attached single or multiple family dwelling shall exceed three and one-half (3 1/2) stories or thirty-five feet (35') in height.
  - (3) No commercial or industrial use shall exceed five (5) stories or fifty feet (50) in height.
  - (4) Minimum lot area: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
  - (5) Minimum lot frontage: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.

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- (6) Minimum front yard: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district. Motor fuel pumps shall not be erected less than twenty-five feet (25') from the front property line.
- (7) Minimum rear yard: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
- (8) Minimum side yard: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
- (9) Minimum floor area for each individual residential dwelling:
  - (a) Studio/efficiency units or one (1) bedroom units – 650 square feet.
  - (b) Two (2) bedroom units – 800 square feet.
  - (c) Three (3) bedroom units – 900 square feet.
  - (d) Four (4) or more bedroom units – 1,000 square feet. (Ord. 1897, eff. 5-14-10)

**Section 14-76. Standards and design requirements.**

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(1) General standards for the planned unit development district: The following general standards shall be followed regarding the planning, design, and construction of the planned unit development district (Ord. 1897, eff. 5-14-10):

- (a) The planned unit development district shall be consistent with the Comprehensive Plan of the City of Trinidad, and with other applicable plans and policies adopted by the City Council.
- (b) The planned unit development district shall be designed in such a manner that, wherever possible, it protects the environmental, historical, and cultural assets of the City including considerations of elements such as environmental pollution, streams and storm drainage courses, scenic vistas and ~~viewsheds~~view sheds, and historic preservation.
- (c) The planned unit development district's relationship to its immediate surroundings shall be considered in order to avoid or mitigate adverse effects to surrounding development caused by traffic circulation, building height or bulk, lack of screening, or other impacts.
- (d) The planned unit development district design and construction plans shall take into account characteristics of soils, slopes, geological hazards, and flood hazards in a manner intended to protect the health, safety, and welfare of potential users of the planned unit development district. These aspects of the plan must be accompanied by a detailed soil engineering, storm drainage and flood report on the suitability of the area for the intended use before a building permit may be issued. The City may waive such reports for previously developed areas.

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- (e) Design and construction of the planned unit development district shall include adequate, safe, and convenient arrangements for pedestrian circulation, roadways, driveways, off-street parking, and loading space(s).
  - (f) Setbacks and lot widths shall be as required by the City Council. In designing their projects, developers must propose setbacks and lot widths that ensure proper ventilation, light, air, adequate access, fire protection, utility service, storm drainage, and snow melt between buildings.
- (2) Requirements regarding the site. The following requirements shall be observed regarding the site of the planned unit development district: Planned open spaces within the planned unit development district, including those open spaces being used as public or private recreation sites or open space easements, and common areas shared by multiple owners shall be protected by adequate covenants running with the land, or by conveyances or dedications.

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- (3) Requirements regarding buffering between residential and nonresidential uses to mitigate potential nuisances: Minimum distances, landscaped ~~buffer yards~~ buffer yards and/or opaque fencing may be required to minimize the impacts that nonresidential uses may have on residential uses and/or between differing residential densities within the planned unit development district or adjacent to the planned unit development district.
- (4) Requirements regarding parks, school sites, and other public areas:
  - (a) Residential uses located within planned unit development districts shall meet the requirements of Section 14-10, Dedication of Land for Mini-Parks, Neighborhood Parks, Community Parks, District Parks in the Form of Trails, and Regional Open Space; Reservation of Land for Public Uses, as applicable.
  - (b) The City Council may require additional recreational amenities within the planned unit development district for residents of such a district, and may require that up to ~~ten-twenty-five percent (10%)~~ (25%) of the planned unit development district area be set aside for park, playground, open space, school site or other public use, in addition to public streets.
- (5) Off-street Parking: The off-street parking regulations contained in Section 14-100 shall govern the provision of off-street parking in a planned unit development district, except that the City Council may require the provision of off-street parking in existing buildings for residential uses.
- (6) Circulation: Circulation shall be determined by a review of each planned unit development district. The planned unit development district must have an adequate and engineered internal street circulation system approved by a professional traffic engineer licensed in the State of Colorado. All planned unit development applications must also include a traffic report produced by a professional traffic engineer licensed in the State of Colorado. Public streets must serve all structures and uses within the planned unit development district. However, private roads may be permitted if they meet minimum construction standards, can be used by public safety vehicles for emergency purposes, and provided that each structure or use in the planned unit development district is served by off-street loading spaces or service areas. A traffic report produced by a professional traffic engineer licensed in the State of Colorado must accompany all applications.

- (7) Signs: Unless otherwise approved by the City Council, the sign regulations contained in Division 13 of this Article shall govern signage in a planned unit development district.
- (8) The City Council may require additional design requirements as it deems necessary to ensure that the planned unit development district complements or protects the surrounding area and complies with the City's Comprehensive Plan.

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- (9) All uses, whether by right or condition, shall be, at a minimum, regulated by the Industrial Performance Standards as set forth in Section 14-71.

**Section 14-77. Procedure.**

The following procedure shall be observed when a Planned Unit Development proposal is submitted for consideration (Ord. 1897, eff. 5-14-10):

- (1) Pre-application conference: A pre-application conference shall be held with the Planning Director in order for the applicant to become acquainted with planned unit development district procedures and related requirements.
- (2) Formal application: An application for approval of a planned unit development district may be filed by a person having an interest in the property to be included in the planned unit development district. The application will be made on a form provided by the City and must include a consent by the owners of all property to be included. The application must be accompanied by a preliminary development plan and a written statement.
  - (a) Preliminary development plan - The preliminary development plan shall show the major details of the proposed planned unit development prepared at an engineering scale of not less than 1" = 100', and shall be submitted in sufficient detail to evaluate the land, planning, building design, and other features of the planned unit development district. The Plan must contain, insofar as applicable, the following minimum information:
    - (I) The existing topography of the land at 2 foot (2') contour intervals.
    - (II) Proposed land uses.
    - (III) The location of all existing and proposed buildings, structures, and improvements.
    - (IV) The maximum height of all buildings.
    - (V) The density and type of dwellings.
    - (VI) The internal traffic and circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way.

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- (VII) The location, height, and size of proposed signs, lighting and advertising devices.

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- (VIII) A park land proposal, including areas which are to be conveyed, dedicated or reserved as general open space, common park areas, including public parks and recreational areas, and as sites for schools or other public buildings.
  - (IX) Areas subject to a 100-year flooding cycle.
  - (X) General plans relating to landscaping.
  - (XI) The proportion of land to be left in a natural condition as open space, stated in terms of acreage or square footage, as well as the ratio of open space in areas to be developed stated on a square feet per unit basis.
  - (XII) If required by the City, traffic impact studies, market studies regarding the proposed use(s), and other similar studies prepared by licensed professionals.
- (b) Written statement: The written statement to be submitted with the planned unit development application must contain the following information:
- (I) A statement of the present ownership and a legal description of all the land included in the planned unit development district;
  - (II) An explanation of the objectives to be achieved by the planned unit development district, including building descriptions, sketches or elevations as may be required to describe the objectives;
  - (III) A development schedule indicating the approximate date when construction of the planned unit development district or stages thereof can be expected to begin and be completed;
  - (IV) A description of snow removal methods or techniques to be utilized;
  - (V) A description of the proposed method of providing ongoing (permanent) maintenance of all commonly-owned or used buildings, facilities, areas, and thoroughfares, and any private roads;
  - (VI) A written statement by a licensed engineer(s) that shall describe and/or provide evidence of:
    - (A) The water source with adequate and dependable capacity to service the proposed planned unit development district at ultimate development in accordance with the provisions contained in C.R.S. 29-20-303 through 305;

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- (B) The proposed method(s) of sewage treatment and the location of plant and outfall;

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- (C) The soil, geological, and ground water conditions of the site;
  - (D) The manner in which storm drainage shall be handled;
  - (E) Copies of any special agreements, conveyances, restrictions, or covenants, which are to be recorded with the planned unit development district's final plat(s), and will govern the use, maintenance, and continued protection of the planned unit development and any of its common areas; and
  - (F) A list of the owners of abutting properties and properties located within 300 feet (300') of the property lines of the land included in the planned unit, and their addresses from available County records.
- (c) The applicant may submit any other information or exhibits he/she deems pertinent that will aid in evaluating his/her proposed planned unit development district.
  - (d) The City may require additional information or exhibits from the applicant it deems is necessary in its consideration of the planned unit development district application.

**Section 14-78. Review and approval.**

The procedure to be followed with respect to review and approval of a planned unit development district shall be the same as that governing applications for the granting of zoning classifications or for the change thereof as set forth in this Article, except that the determination of the Planning Commission and the City Council in consideration of a planned unit development district shall be governed by the following additional standards and requirements (Ord. 1897, eff. 5-14-10):

- (1) The Planning Commission shall review the preliminary development plan to determine that it complies with the City's Comprehensive Plan and applicable City Codes and policies.
- (2) Within thirty (30) days after the public hearing, the Planning Commission shall forward a written report to the City Council recommending that the plan be approved, disapproved, or approved with modifications.
- (3) Within thirty (30) days or such additional time as the City Council deems necessary, after the receipt of the written report from the Commission, the City Council shall either approve, disapprove, or approve with modifications the application.

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- (4) If the plan is approved, the subject area shall be designated and shown on the official zoning map as a planned unit development district if it is not already designated as such, and the legal description of the subject area shall be recorded so as to properly advise that the land is subject to a planned unit development district ordinance.
- (5) Within six (6) months following approval of the preliminary plan, the applicant shall file with the Planning Commission a final development plan and any additional information which may be requested by the Commission. The Commission may authorize submission of

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the final development plan in stages. Upon approval of the final plan or portion thereof, the plan and all accessory documents shall be filed with the City Clerk as a matter of public record. If the applicant has not submitted such plan within the period provided, the Commission can initiate proceedings to remove the planned unit development district from the zoning map. The zoning district applicable before approval of the preliminary plan shall then be in effect.

- (6) The final development plan as approved by the Planning Commission shall be binding and shall not be changed during the construction of the planned unit development district except upon application to the appropriate agency under the following procedures:
  - (a) Minor changes in locations, siting, and bulk of structures or character of building may be authorized by the Commission during the final development plan review if required by circumstances not foreseen at the time the preliminary plan was approved.
  - (b) All other changes in use, any rearrangement in lots, or changes in the provision of open space must be made by the City Council under the procedures established in this Article for amendment of the zoning map.

**Section 14-79. Failure to meet development schedule.**

If the applicant has not begun construction in the planned unit development district within one (1) year after the approval of the final development plan or otherwise has failed to meet the approved development schedule, the Planning Commission shall ~~consider initiating~~ initiate proceedings to revoke approval for the planned unit development district ~~to remove the planned unit development district from the zoning map~~, except that for good cause shown by the applicant, it may extend the development schedule. Upon the completion of proceedings to revoke approval for the planned unit development ~~remove the planned unit development district from the zoning map~~, the zoning district applicable before approval of the preliminary plan shall then be in effect (Ord. 1897, eff. 5-14-10).

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**Section 14-80. Zoning review.**

At least once every two (2) years following the approval of a planned unit development district, the ~~Planning, Zoning and Variance Commission Planning Director~~ shall review all building permits which have been issued for the planned unit development district and shall examine the construction which has taken place on the site. If the ~~Commission Planning Director~~ finds that the rate of construction has not met the approved development program or if there are found to be violations of any of the provisions of this Article or the terms or conditions of the planned unit development district approval, ~~the Commission shall issue a report of said violations to the City Council a report shall be forwarded to the Commission for recommendation. A report of this recommendation shall be forwarded to the City Council.~~ The City Council shall hold a hearing on the report of violations submitted by the Commission having first given notice to the planned unit development district applicant and all owners of abutting property. Upon review of the alleged violations, the City Council may, if it is deemed necessary, require that the appropriate action be taken to remedy the violations, amend or modify the planned unit development district, or revoke approval (Ord. 1897, eff. 5-14-10).

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**Section 14-81. Completion of a planned unit development.**

- (1) Upon request of the owner, the Planning Director shall issue a certificate certifying completion of the planned unit development, and shall note the issuance of the certificate on the zoning map and on the district's site plan (Ord. 1897, eff. 5-14-10).
- (2) After completion, the use of land and the construction, modification, or alteration of any buildings within the planned unit development district will be governed by the approved site plan.
- (3) Except as follows, no changes may be made in the district after its final development plan approval.
  - (a) Minor changes in the location, size, siting, or character of buildings or structures may be authorized by the Planning Director. No change authorized under this section may increase the size of any building or structure by more than ten percent (10%).
  - (b) All other changes in the district and to the district's site plan must be made under the procedures that are applicable to the initial approval of a planned unit development district.

**Section 14-82. Conformance with subdivision regulations.**

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Any area proposed as a planned unit development district shall be subject to the requirements for review and approval under the subdivision regulations, except as provided in this Article. Such subdivision review may be carried out concurrently with consideration of the planned unit development district application as outlined in this Article (Ord. 1897, eff. 5-14-10).

**Section 14-83. Subdivision and resale.**

- (1) A planned unit development district shall be subdivided or re-subdivided for purposes of sale or lease, in accordance with the City's subdivision regulations. Potential owners of land or property located in a planned unit development district should be made aware of the district's requirements by the current owner prior to such purchase, as the new owners will be subject to those requirements.
- (2) The subdivision or re-subdivision may be approved if it does not change location of uses, and if it does not increase the overall residential density of the district and if the district, following the subdivision or re-subdivision, is in compliance with the standards required for that planned unit development district and for planned unit development districts provided in this Article (Ord. 1897, eff. 5-14-10).

**Section 14-84. Fees for planned unit development district application.**

Fees, as may be deemed necessary, to help defray the cost of processing, administering and enforcing the provisions contained in this Division 11 of this Article may be established by the City Council and shall be paid by the applicant upon submission of the indicated type of plan for review by the Commission (Ord. 1897, eff. 5-14-10). Chapter 14,  
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