

# Mapleton City Council Staff Report

Meeting Date: June 3, 2014

**Applicant:** Bruce Dickerson

**Prepared by:** Sean Conroy, Community Development Director

**Public Hearing Item:** No

**Location:** 190 N 1100 W

**Zone:** PRD-1

## **REQUEST**

Consideration of a Resolution amending Exhibit “B” (Concept Plan) and Exhibit “C” (Conditions Precedent) of the Development Agreement related to the fencing of backyards for each residential unit for the Whisper Rock project located at approximately 190 N 1100 W in the PRD-1 Zone.

## **BACKGROUND AND PROJECT DESCRIPTION**

The subject property is approximately 16.55 acres in size. In 2009, the City approved a development agreement for the Whisper Rock subdivision project and applied a Planned Residential Development (PRD-1) zoning to the property. On May 20, 2014 the City Council approved amendments to Exhibit “B” and Exhibit “C” of the development agreement that included the following:

- Elimination of the size requirement for the clubhouse as well as the requirement for the pool, restrooms with showers, theater room, meeting room and exercise room. A smaller clubhouse is still required as well as a central park that includes a tot lot, a sports court and a large grass area.
- A revision to the proposed trail system.
- On-street parking will only be allowed on one side of the interior roads.
- The setback requirements for a front porch will be revised from 20 feet to 16 feet and the setbacks between structures will be reduced from 20 feet to 15 feet.

The applicant is also proposing to amend the Covenants, Conditions and Restrictions (CC&R’s) to allow for a larger backyard area to be maintained by each individual property owner as limited common areas. As part of this request the applicant is requesting that fencing be installed behind each individual unit to allow for private backyard areas. Staff notes that the County Recorder’s office does not differentiate between common areas and limited common areas. The uses and restrictions related to these areas are governed by the CC&R’s.

On May 20, 2014 the majority of the City Council expressed concern that the request for fencing may violate the PRD-1 ordinance standards as well as the intent of the PRD-1 zone. The City Council continued this request and directed staff to consult with the City Attorney regarding the PRD-1 fencing restrictions. Several neighboring property owners attended the previous hearing and expressed concerns ranging from traffic and safety impacts, lack of proper fire ingress and egress, neighborhood character impacts and concerns regarding the fencing of individual yards.

## **EVALUATION**

**PRD-1 Zone & Fencing:** The City Council requested that the City Attorney review the PRD-1 ordinance and determine whether approving backyard fencing as proposed by the applicant would violate the PRD-1 ordinance. The Attorney’s position is that the ordinance is sufficiently vague as to allow the Council to interpret it in the manner it deems most appropriate. A court of law would likely give deference to the City Council’s interpretation of an ordinance it has adopted specifically for one project.

Staff recommends that the Council consider the purpose of the PRD-1 zone and whether the proposal to install backyard fencing conflicts with this purpose. Mapleton City Code (MCC) Chapter 18.77.020 outlines the purpose of the PRD-1 zone as follows:

*A. The purpose of this chapter is to create diverse, quality housing in the city, while also providing a buffer from anticipated commercial development along the state road corridor (Highway 89) and adjacent lower residential uses.*

*B. The purpose of this chapter is accomplished by:*

- 1. Allowing densities higher than a typical residential development;*
- 2. Establishing standards for landscaping, building and site design, public safety, parking, aesthetics, traffic circulation, fencing, lighting, and other similar site improvements; and*
- 3. Requiring standards that enable the PRD-1 to fit into the surrounding neighborhoods.*

MCC Chapter 18.77.060.F also states the following regarding interior fencing for the project:

- 2. Patio/Limited Common Area Fences: A patio or limited common area adjacent to the rear of a dwelling unit may be enclosed with a six foot (6') high maximum fence, provided that such fence includes an access gate from the common area. The minimum width and length of the common area leading to the gate shall be fifteen feet (15').*

The PRD-1 zone is designed to provide an alternative to large lot subdivision development without compromising the character of the surrounding neighborhoods. The fencing standards in the zone envisioned both perimeter and interior fencing. The Council should determine whether the proposed fencing would preclude the development from adequately fitting in to the surrounding neighborhoods or from providing diverse, quality housing in the City.

It is not uncommon in the City or in the surrounding neighborhoods for homes to have backyard fencing, and since the perimeter of the development is fenced, most of the rear yard fencing will not be visible from the public rights-of-way. Provided the HOA maintains the front yards in a quality manner, staff does not believe the allowance of backyard fencing would significantly impact the compatibility of the development with the surrounding neighborhoods or preclude the provision of diverse, quality housing in the City.

**Options:** The Council should discuss the following options.

- 1) Interpret the PRD-1 ordinance to allow rear yard fencing and approve the requested amendments.
- 2) Interpret the PRD-1 ordinance to not allow fencing beyond a small patio area and deny the requested amendments.
- 3) Interpret the PRD-1 ordinance to not allow fencing beyond a small patio area, but direct staff to prepare an amendment to the code to allow backyard fencing. Once the ordinance has been amended, approve the requested development agreement amendments as well.

**RECOMMENDATION**

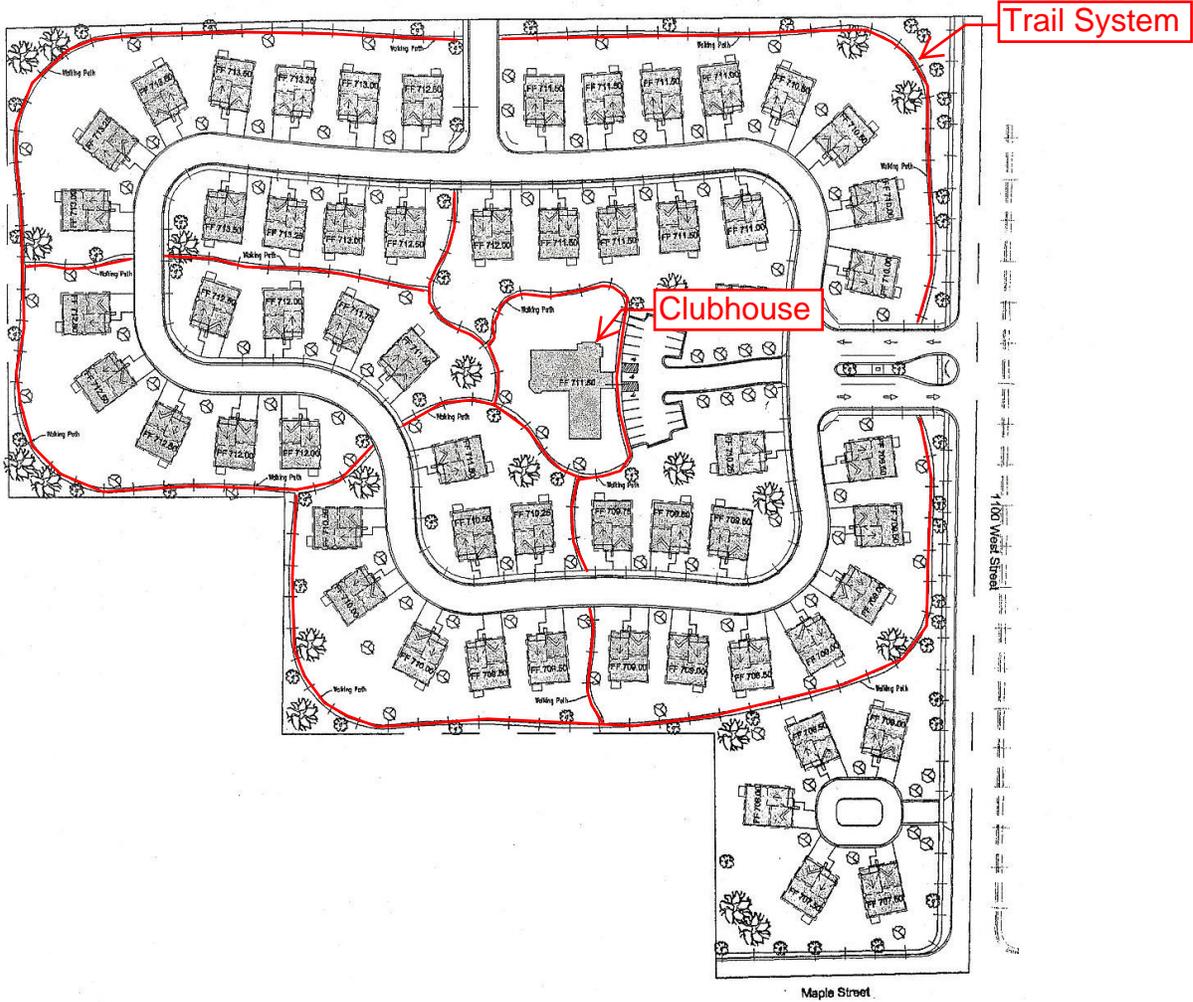
Interpret the PRD-1 ordinance to allow rear yard fencing and adopt a Resolution approving amendments to Exhibit “B” (Concept Plan) and Exhibit “C” (Conditions Precedent) of the Whisper Rock Development Agreement related to the fencing of backyards for each residential unit.

**ATTACHMENTS**

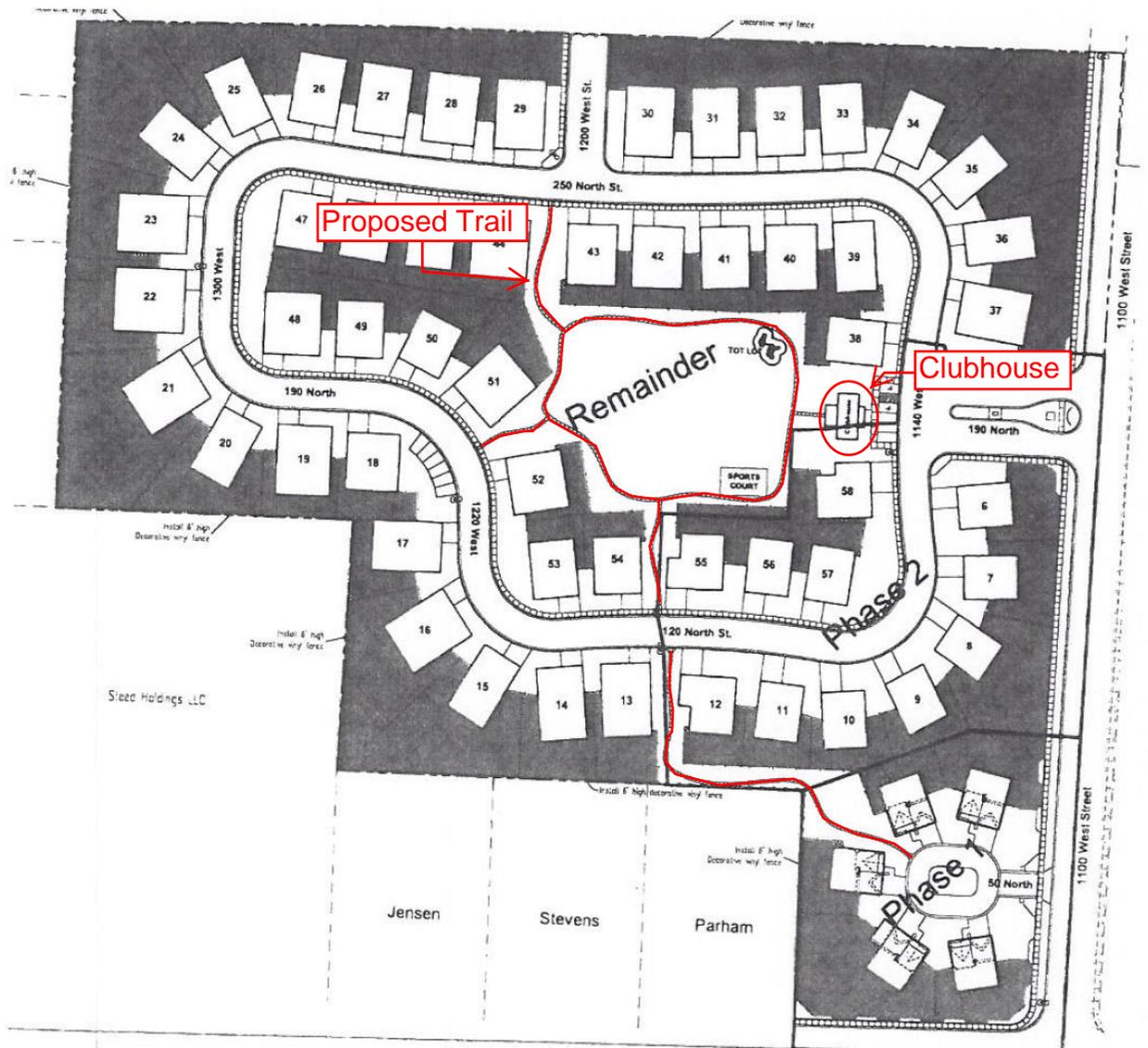
1. Application Information.
2. PRD-1 Zoning Text.

# Original Concept Plan and Proposed Concept Plan

## Original Concept Plan



# Proposed Concept Plan



## **RESOLUTION NO. 2014-**

### **CONSIDERATION OF A RESOLUTION AMENDING EXHIBIT “B” (CONCEPT PLAN) AND EXHIBIT “C” (CONDITIONS PRECEDENT) OF THE DEVELOPMENT AGREEMENT RELATED TO THE FENCING OF BACKYARDS FOR EACH RESIDENTIAL UNIT FOR THE WHISPER ROCK PROJECT LOCATED AT APPROXIMATELY 190 N 1100 W IN THE PRD-1 ZONE RELATED TO THE PROPOSED CLUBHOUSE AMENITIES AND THE PROJECT TRAIL SYSTEM.**

**WHEREAS**, on December 18, 2009 a development agreement was recorded with the Utah County Recorder for the Whisper Rock subdivision project; and

**WHEREAS**, the concept plan for the project included 58 detached residential units, a clubhouse, a swimming pool and a walking trail; and

**WHEREAS**, on June 17, 2009 the City Council approved a Planned Residential Development (PRD-1) zone for this project; and

**WHEREAS**, the intent of the PRD-1 zone is to allow small residential lots as a buffer between commercial property and larger lot developments, and to outline development standards for smaller lots; and

**WHEREAS**, the developer is requesting amendments to Exhibit “B” (Concept Plan) and Exhibit “C” (Conditions Precedent) related to fencing standards; and

**WHEREAS**, the proposed amendments do not conflict with the standards or intent of the PRD-1 zone.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of Mapleton, Utah, to amend Exhibit “B” (Concept Plan) and Exhibit “C” (Conditions Precedent) of the development agreement as described in the attachment.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF MAPLETON, UTAH,

This 3<sup>rd</sup> Day of June, 2014.

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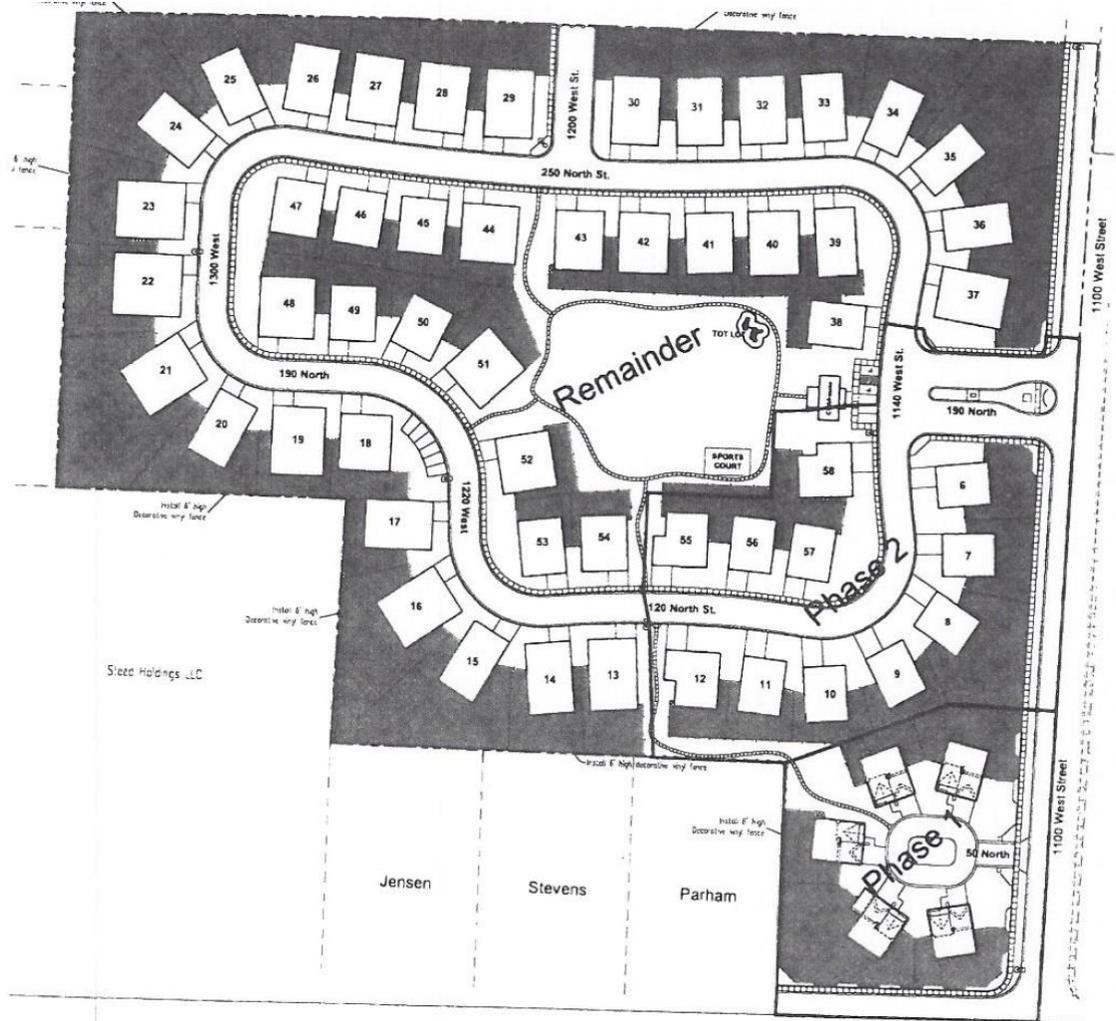
Brian Wall  
Mayor

ATTEST:

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Camille Brown  
City Recorder  
**Publication Date:**  
**Effective Date:**

# Exhibit "B" Final Site Plan



**Exhibit "C"**  
**Conditions Precedent**

(Changes to items 3, 4, 5, 8, & 12 were adopted on 5/20/14)

Developer Responsibilities

1. Dedication of property for public improvements: The Developer agrees to dedicate to the City approximately twenty (20) feet of property along its frontage of 1100 West Street and along Maple Street for the widening of those roadways, the Developer also agrees to dedicate an additional 5 feet of property along those same frontages for the installation of sidewalk. The street and sidewalk dedications described will be addressed at time of site plan approval.
2. Developer will provide to the City all necessary easements for connection of project utilities to the public system.
3. Developer will provide no later than the construction of thirty (30) residential units a project clubhouse, tot lot play area and sport court, as shown on the Final Site Plan attached as Exhibit B. ~~with a minimum size of twenty two hundred (2,200) square feet. which will include the following amenities: swimming pool including restrooms with showers, theater room, meeting room and exercise facility.~~
4. Developer will provide a walking trail for the benefit of the project residents. The trail shall be constructed proportionally with each phase of construction as shown on the Final Site Plan attached as Exhibit B.
5. All units will be single family structures of frame construction with either a two (2) or three (3) car enclosed garage. The main floor living space of each unit will be a minimum of twelve hundred (1200) square feet. Building exteriors shall be of stucco, stone, brick or hard surface siding (Hardy Plank, Smart Siding or equivalent). Vinyl or aluminum siding is prohibited except for soffit and fascia and architectural features. The building front shall be a combination of stucco and stone.
6. With the recording of the first phase of development the developer will provide to the City evidence of incorporation of a homeowners association with authority to regulate common and limited common elements of the project. The homeowners association shall be responsible for all common element maintenance and shall maintain a look of uniform quality.
7. The Developer will fence the perimeter of the project with a six (6) foot vinyl fence except where adjacent to streets. All interior fencing shall be of vinyl in a compatible design to the perimeter fence. The fence design adjacent to 1100 West and Maple Streets will be approved by the City Council as a part of each phase. Additionally, each residence, with the exception of the cul-de-sac fronting on West street, will include side and rear yard fencing as shown on the Final Site Plan attached as Exhibit B.
- 7.8. Parking will be allowed on one side of the street only.
- 8.9. All storm drainage to be retained on site and dispersed through approved sumps and trench drains

- 9.10. \_\_\_\_\_ Water shares will be delivered at time of approval of each phase of development.
- 10.11. \_\_\_\_\_ The project density shall not exceed three and one half (3.5) single family units per acre for the overall site.
- 11.12. \_\_\_\_\_ Developer shall maintain a minimum set back of twenty (~~2020~~) feet from the garage door and back of curb (back of sidewalk where applicable), sixteen (16) feet from the porch or living area and back of curb (back of sidewalk where applicable), and maintain a minimum distance of twenty (~~1520~~) feet between units.
- 12.13. \_\_\_\_\_ The Developer shall meet all requirements of Chapter 18.77, Planned Residential Development, Mapleton City Code.

### City Responsibilities

1. Inconsideration of the above mentioned Developer responsibilities and because of the positive impact of the development as a buffer separating commercial and future commercial development from low density residential development, the City of Mapleton agrees to accept the surrender of seven (7) Transferable Development Rights or TDR's as full requirement for the increase in density. TDR's will be surrendered to the City concurrently with request for building permits at the rate of one (1) TDR per each eight point two (8.2) units.
2. The City accepts the street cross sections found in Exhibit D as the standard for street construction for the project.

# **Chapter 18.77**

## **PRD-1 PLANNED RESIDENTIAL DEVELOPMENT-1 WHISPER ROCK DEVELOPMENT**

### **18.77.010: TITLE:**

This chapter shall be known as the *PLANNED RESIDENTIAL DEVELOPMENT-1 ORDINANCE* or *PRD-1 ORDINANCE*. (Ord. 2009-06, 6-17-2009, eff. 8-19-2009)

### **18.77.020: PURPOSE:**

- A. The purpose of this chapter is to create diverse, quality housing in the city, while also providing a buffer from anticipated commercial development along the state road corridor (Highway 89) and adjacent lower residential uses.
- B. The purpose of this chapter is accomplished by:
  - 1. Allowing densities higher than a typical residential development;
  - 2. Establishing standards for landscaping, building and site design, public safety, parking, aesthetics, traffic circulation, fencing, lighting, and other similar site improvements; and
  - 3. Requiring standards that enable the PRD-1 to fit into the surrounding neighborhoods. (Ord. 2009-06, 6-17-2009, eff. 8-19-2009)

### **18.77.030: LEGISLATIVE FINDINGS:**

The city council makes the following findings:

- A. Requiring standards for smaller lot housing will help preserve the quality of housing in the future within Mapleton City.
- B. Smaller lot housing may be utilized to help buffer commercial uses from low density residential development.
- C. Although small lot housing has enjoyed a strong market demand as an alternative to the traditional large lot housing, additional standards for small lot housing are necessary to ensure adequate light, air, privacy, and open space for each dwelling unit, and to protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects. (Ord. 2009-06, 6-17-2009, eff. 8-19-2009)

### **18.77.040: WHERE ALLOWED; TYPES AND USES:**

- A. The area for the PRD-1 is located generally on the northwest corner of 1100 West and Maple Street, buffering existing and anticipated future commercial developments from low density residential developments.
- B. All uses within a PRD-1 shall comply with the development agreement provided under subsection [18.77.060M](#) of this chapter.
- C. The PRD-1 includes single-family dwellings on lots smaller than typically allowed in other zones.
- D. Accessory apartments may be allowed if determined with a development agreement provided under subsection [18.77.060M](#) of this chapter.
- E. Home occupations (subject to section [18.84.380](#) of this title) with the following additional restrictions:
  - 1. Notwithstanding the provisions of subsection [18.84.380D7](#) of this title, parking is further limited to the number of available off street parking spaces at the home. The home occupation owner shall ensure that all off street parking spaces shall be located in the driveway or garage. A client or employee shall park in the off street parking spaces designated for the home.
  - 2. A client or employee of the home occupation may not park or store a vehicle at the premises overnight. (Ord. 2011-16, 10-11-2011, eff. 11-28-2011)

### **18.77.050: BUILDING PERMITS:**

The city shall not issue a building permit for any portion of the planned residential development until the final or final phased plat has been approved by the city council and recorded at the Utah County recorder's office. (Ord. 2009-06, 6-17-2009, eff. 8-19-2009)

### **18.77.060: DEVELOPMENT STANDARDS AND REQUIREMENTS:**

The city requires the following development standards and requirements within the PRD-1:

- A. Density: A PRD-1 may be developed with overall densities of twelve thousand (12,000) square feet per unit with the use of TDRs. A PRD-1 not utilizing TDRs shall not exceed densities of fourteen thousand five hundred (14,500) square feet per unit.

Thus, by way of example and not limitation, a property owner who owns a total of ten (10) acres with an overall density of twelve thousand (12,000) square feet per unit shall be required to submit a total of six (6) TDRs, illustrated as follows:

10 acres multiplied by 43,560 square feet = 435,600 square feet  
 435,600 square feet divided by 12,000 square feet = 36 units  
435,600 square feet divided by 14,500 square feet = 30 units  
 Total number of TDRs required = 6 TDRs (36 units subtracted by 30 units)

For the purpose of determining fractions, any fractional number shall be rounded up. For example, if the TDR calculation is 6.25, the property owner shall be required to submit a total of seven (7) TDRs.

B. Area: The minimum size requirement for any project applying for the PRD-1 shall be no less than ten (10) acres.

C. Minimum Floor Area: All dwelling units shall have a minimum main floor area of one thousand two hundred (1,200) square feet. Two-story homes shall have a minimum area of one thousand (1,000) square feet on the main floor. Main floor areas shall be exclusive of garages, porches, areas not normally considered occupied space.

D. Setbacks: All setbacks within the PRD-1 shall comply with the development agreement provided under subsection M of this section.

E. General Height Requirement: A maximum of thirty feet (30') measured from the finished grade at the foundation to the midpoint of the roof.

#### F. Fences:

1. Perimeter Fences: Developers shall erect a fence with a minimum height of six feet (6') on the perimeter of the PRD-1, except that no fence is allowed along exterior street frontages. However, if the applicant desires a fence along an exterior street frontage, the city council may approve the fence if the fence does not interfere with traffic safety. The perimeter fence shall have a consistent design throughout the project and use the same construction materials for the entire fence. The purpose of the fencing requirement is to buffer the surrounding residential neighborhoods from the PRD-1 and to buffer the PRD-1 from surrounding commercial uses. The city council may waive the fencing requirement if the topography is such that the fence does not meet the purpose of the fencing requirement. Wood fences and chainlink fences with slats are not permitted in the PRD-1.

2. Patio/Limited Common Area Fences: A patio or limited common area adjacent to the rear of a dwelling unit may be enclosed with a six foot (6') high maximum fence, provided that such fence includes an access gate from the common area. The minimum width and length of the common area leading to the gate shall be fifteen feet (15').

#### G. Landscaping:

1. All land within a PRD-1 not covered by buildings, driveways, sidewalks, structures, and patios shall be designated as common area and shall be permanently landscaped with trees, shrubs, lawn, or ground cover and maintained in accordance with good landscaping practice. All required setback areas adjacent to public or private streets shall be landscaped. All landscaping shall have a permanent underground sprinkling system.

2. At least one deciduous tree of two inch (2") caliper measured four feet (4') above the ground, one evergreen tree at least five (5) gallons in size, and sixteen (16) evergreen shrubs at least five (5) gallons in size are required for every dwelling.

H. Lighting Plan: The PRD-1 shall include a lighting plan. The lighting plan shall be designed to:

1. Discourage crime;

2. Enhance the safety of the residents and guests of the PRD-1;

3. Prevent glare into the sky and onto adjacent properties; and enhance the appearance and design of the project;
4. The PRD-1 homeowners' association is required to control, meter, and pay for all power costs for all outside lighting shown on the lighting plan except for front and back door lighting. The lighting plan shall designate which lighting shall be commonly metered to the association or owner.
  - I. Parking: Each residential unit shall have an attached or detached two (2) car garage. There shall be a minimum of four (4) parking spaces provided for each dwelling, two (2) in the garage and two (2) in the driveway directly in front of the garage. All parking spaces shall measure at least nine feet by eighteen feet (9' x 18'). Developers shall pave with asphalt and/or concrete all parking spaces, parking areas, and driveways and provide proper drainage. Drainage shall not be channeled or caused to flow across pedestrian walkways.

J. Streets:

1. All streets within a PRD-1 zone shall comply with the development agreement provided under subsection M of this section.
2. A traffic study will be required for the PRD-1.
3. All streets that are shown on the Mapleton City transportation master plan shall be developed as public streets according to the size and general location shown on the Mapleton City master street plan.
4. The city council has the authority to require streets in a PRD-1 to connect with other public streets outside the PRD-1 where such connection is necessary for good traffic circulation in the area.
5. All streets in a PRD-1 shall be public streets constructed to city standards and specifications and dedicated to the city. However, private drives may be permitted, provided that:
  - a. They will not extend to or provide service to another property or parcel not included in the PRD-1.
  - b. They shall be paved with either concrete or asphalt and shall not access or service more than five (5) units.
  - c. They will not provide access or travel between, or otherwise connect with two (2) or more public streets.
  - d. They are designed by a qualified civil engineer and constructed to city standards and specifications.
  - e. They are designated on the final plat as perpetual rights of way and public utility easements.
  - f. All access points from public streets have "Private Street" or "Private Drive" signs installed.
  - g. They are no less than twenty four feet (24') in width.
  - h. The city council or city engineer may require private streets/drives to be wider if necessary to ensure traffic and pedestrian safety and to reduce traffic congestion.

- K. Exterior Finishing Materials: The front elevation shall be of either brick, stone, cultured stone, stucco, or a combination of these materials. The rear and side elevations shall be of either brick, stone, cultured stone, stucco, or hard surface siding (hardy plank).
- L. Homeowners' Association: The applicant shall establish a homeowners' association for the PRD-1. The homeowners' association shall maintain all common and open areas, including any amenities provided within the project.
- M. Development Agreement Required: Prior to the rezone hearing before the planning commission and city council for the PRD-1, the applicant shall provide a detailed development agreement that details the entire project, an accurate legal description, the total number of units, the number of TDRs being used, the amount of, and design of open spaces, fencing and any other amenities the developer is going to provide. The agreement will be recorded with the Utah County recorder and will be attached to the title of the property. (Ord. 2009-06, 6-17-2009, eff. 8-19-2009)

### **18.77.070: BONDING:**

Meet all requirements of [chapter 17.20](#), "Performance Guarantees", of this code