



# Memorandum

Planning Division  
Community & Economic Development Department

To: Planning Commission  
From: Casey Stewart, Senior Planner  
Date: June 6, 2012  
Re: Revisit proposed amendments to subdivision and site development ordinances  
Encl: Exhibit A: Background of a 2003 city council *indecision* affecting the site development ordinance  
Exhibit B: Only the pertinent portion of the draft proposed amendments for your review

Back in January of this year, planning staff presented proposed amendments of the city's subdivision and site development ordinances. The planning commission voted in favor of forwarding the amendments to the city council. While working to transmit the complete amendment package to the city council, planning staff and the city attorney's office discovered a few paragraphs relating to appeals and expiration in the site development ordinance that should have been updated, and a lingering conflict between lot size requirements that should be resolved. The proposed revisions are being presented to the planning commission for a decision prior to forwarding the full amendment package to the city council.

## Item 1 of 3:

**Appeals of site development ordinance decisions:** The intent with these latest revisions is to follow the same appeal process for site development decisions as other land use decisions, where the final appeal is heard by the land use appeals hearing officer.

## Item 2 of 3:

**Expiration of site development permit:** Update the site development permit expiration time period to the same time period for building permits. This change extends the expiration time and makes it easier for the city building services division to track.

## Item 3 of 3:

**Conflict between lot size requirements:** Ten years ago, in 2003, the planning commission considered a proposal by the city administration to resolve a conflict between minimum lot size calculations in the site development ordinance for lots in Foothills Residential zoning districts and minimum lot size requirements in the zoning ordinance for a "planned development" application. The planning commission arrived at a resolution and voted to forward the resolution to the city council for

adoption. The *council* held a public hearing and tabled a decision pending further discussion and research. Planning staff is unsure what, if any, additional discussion took place, and the item was never placed on a follow up agenda and languished without a decision.

**There is now an opportunity to conclude the outstanding issue as part of these subdivision and site development ordinance amendments.** Planning staff decided to include the 2003 planning commission recommendation in the current amendment package in an attempt to finalize and resolve the remaining conflict. See EXHIBIT A for a background of the conflict and what the planning commission recommended in 2003.

Options presented to the planning commission in 2003 by planning staff and developed over several meetings included:

1. Follow the City Attorney's recommendation to remove language from the Site Development Ordinance that refers to the planned development process.
2. Remove language from the Site Development Ordinance that requires the planned development review process and establish review standards for Planning Commission consideration.
3. Remove language from the Site Development Ordinance that specifies slopes greater than 30% cannot be counted toward the zone required minimum lot size and consider evaluating rezoning foothill property to require larger lot minimums, if appropriate.
4. Require the City Attorney's office to determine on a case-by-case basis whether or not to waive the minimum planned development size based on a determination of a substantial risk of successful taking claim and based on the Attorney's determination the application would be reviewed by the Planning Commission under one of the following options:
  - a. Zoning district and subdivision regulations, or
  - b. Planned development analysis without meeting the minimum lot size requirement for a planned development
5. Amend the Zoning Ordinance minimum planned development size to require a 2-lot minimum project size equivalent to enter the planned development process in all residential zoning districts.
6. Not amend the existing language in the Site Development Ordinance, but add a new section that would create a process that allows the Planning Commission the discretion to review parcels:
  - a. That do not meet the minimum project size for a planned development, and
  - b. To include slopes over 30% toward meeting the minimum zoning required lot area of the underlying zone based on specific minimum criteria. (Please refer item G. below for the specific criteria.)

**In 2003, the Planning Commission recommended Option 6 above with the following additional criteria.**

1. Undevelopable area shall not be used to determine the minimum lot size as required by the underlying zone, unless specifically approved by the Planning Commission through the planned development review process.

2. For independently owned parcels that do not meet the minimum project size for a planned development, the Planning Commission may count sloped over 30% toward meeting the minimum zoning required lot area of the underlying zone where the planning commission finds that:
  - a. The parcel fronts on an existing dedicated public street.
  - b. The parcel has a minimum of 1,500 square feet of net buildable area. The net buildable area shall not include any areas of 30% or greater slope or the required zoning setbacks or the portion of the transitional area that lies within the required 10 foot minimum setback or 20 foot average setback from the proposed development limit line, as defined by the Salt Lake City Zoning Ordinance.
  - c. The parcel has city sewer and water services that are located or can be extended to access the lot directly for the street.
  - d. The applicant must present a construction plan, acceptable to the Planning Director, which demonstrates the ability to manage staging from construction in manner that will not impact transitional or steep slope areas.
  - e. The proposed development on the parcel is compatible with the surrounding neighborhood and will not have a material net cumulative adverse impact on the neighborhood or the City as a whole.

It is planning staff's opinion that the original 2003 recommendation should be part of the recent subdivision and site development ordinance amendments in order to clear up the conflict.

Thank you.

**EXHIBIT A**

P03-15

ALISON WEYHER  
DIRECTOR

**SALT LAKE CITY CORPORATION**  
COMMUNITY AND ECONOMIC DEVELOPMENT

ROSS C. "ROCKY" ANDERSON  
MAYOR

**COUNCIL TRANSMITTAL**

**TO:** Rocky Fluhart, Chief Administrative Officer **DATE:** June 27, 2003

**FROM:** Alison Weyher

**RE: Petition 400-03-07:** A request by the Salt Lake City Planning Commission to amend the Salt Lake City Site Development and/or Zoning Ordinance to correct a discrepancy between Section 18.28.30.B.11c. (Developable Area Limitation) of the Site Development Ordinance and Table 21A.54.150.E.2. (Minimum Planned Development Size) of the Zoning Ordinance relating to minimum lot size and developable area requirements in foothill zoning districts.

**STAFF CONTACT:** Ray McCandless, Principal Planner 535-7282

**DOCUMENT TYPE:** Ordinance

**BUDGET IMPACT:** None

**DISCUSSION:** During the review of a proposed foothill subdivision located at 1085 East North Bonneville Drive, the City Attorney's Office raised concern over a discrepancy between the City's Site Development Ordinance and Zoning Ordinance that prevents lots that, although meeting the minimum lot size required by the zoning district, do not contain the minimum lot size, consisting exclusively of less than a 30% slope to be approved as a planned development, as required by the City's Site Development Ordinance. These lots meet the minimum lot size required by the zoning district but are not large enough to meet the minimum project size for planned development consideration and are therefore excluded from entering any review process (see attached letter in the staff report to the Planning Commission dated January 15, 2003). As an example, a lot in the FR-2 zone may have the zone required lot area of 21,780 square feet, but in order to enter the Planned Development review process to count slopes over 30% toward the lot minimum, 5 acres are required.

This discrepancy was discussed at the November 7, 2002, Planning Commission meeting where the Planning Commission initiated a petition for staff to review and propose appropriate changes (see attached minutes). The discrepancy must be corrected to reasonably limit a potential takings claim exposure for the City.

The Planning Commission made its recommendation pursuant to section 21A.50.050 of the City's Zoning Ordinance.



**Findings of Fact:** Based on Section 21A.50.050 (Standards for general amendments) of the Zoning Ordinance, the Planning Commission has determined that the proposed ordinance text amendment is appropriate based on the following findings of fact as discussed in the staff report to the Planning Commission:

**A. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City.**

**Discussion:** The master plans uniformly express concern regarding protection of slopes greater than 30%. Another common goal is to ensure that development is compatible with the existing character of the immediate neighborhood and environmentally sensitive. The proposed options discussed in the staff reports to the Planning Commission support these goals.

**Findings:** The proposed revisions are consistent with the purposes, goals, objectives and policies of the applicable master plans.

**B. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property.**

**Discussion:** The proposed revisions will create a more uniform and consistent standard by which proposed developments can enter the development review process. Consistent standards will lead to foothill development that is compatible with both existing development and with the natural environment.

**Findings:** The proposed amendments are harmonious with the overall character of the foothills.

**C. The extent to which the proposed amendment will adversely affect adjacent properties.**

**Discussion:** This standard does not apply.

**Findings:** The proposed amendments will not adversely affect adjacent properties.

**D. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards.**

**Discussion:** The foothills are located in the Groundwater Source Protection Overlay District. Larger lots as characterized by foothill development pose less threat to aquifer recharge areas than smaller lots commonly found throughout the City.

**Findings:** The proposed amendment is consistent with the provisions of the Groundwater Source Protection Overlay District.

- E. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.**

**Discussion:** New foothill development proposals will be reviewed on a case-by-case basis as applications are filed and will be reviewed by the Planning Commission. This standard does not apply.

**Findings:** The amended site development ordinance will not affect roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

**Public Process:** The Planning Commission first reviewed this petition on May 28, 2003. The Planning Commission heard comments from the public, closed the public hearing and continued the item until June 11, 2003 to allow the Planning Staff time to prepare revised language as directed by the Planning Commission. Several concerns were raised by adjoining neighbors as indicated in the attached Planning Commission minutes, e-mails and letters.

Given concerns raised after the June 11, 2003 Planning Commission meeting and a request from a concerned neighboring property owner to re-open the hearing, staff inquired whether the Planning Commission would consider re-opening the public hearing process at its June 25, 2003 Planning Commission. The Planning Commission, by a majority vote, decided not to re-open Petition No. 400-03-07 pertaining to the Salt Lake City Site Development Ordinance. It was the Commission's view that there were no procedural or substantive missteps made in its review of said Petition. The Commission felt that it had given adequate opportunity for public comment and that it gave due consideration to all view points presented to it. The Planning Commission directed staff to forward its recommendation to the City Council for review and action.

Section 21A.10 requires that the legislative body hold advertised public hearings prior to amendments to ordinance text. Newspaper advertised notice is required prior to consideration by the City Council. A draft notice has been provided in this transmittal packet.

**Relevant Ordinances:**

Section 18.28.30.B.11c. of the Site Development Ordinance

Section 21A.54.150.E.2 of the Zoning Ordinance

Section 21A.50.050 Standards for General Amendments of the Zoning Ordinance

**EXHIBIT B**



**20.12.020: LOT DESIGN STANDARDS:**

The size, shape and orientation of lots in a subdivision shall be appropriate to the location of the proposed subdivision and to the type of development contemplated. The following principles and standards shall be observed:

- A. Minimum Area:...(no changes from prior PC recommendation)
- B. Side lot lines:...(no changes from prior PC recommendation)
- C. Width:...(no changes from prior PC recommendation)
- D. Corner Lots:...(no changes from prior PC recommendation)
- E. Remnants:...(no changes from prior PC recommendation)
- F. Double Frontage Lots:...(no changes from prior PC recommendation)
- G. Developable Area Limitation:
  - 1. The planning commission or its designee shall review each proposed foothill subdivision and, using “ten-foot averaging”, shall determine the extent of significant steep slopes within the subdivision. The planning commission or its designee shall require all such undevelopable portions of proposed subdivisions to be identified by placement of a development limit line and legal description upon the final plat. Such limitation shall also be made a part of the subdivision restrictive covenants. In addition to protecting significant steep slopes, development limit lines may also be established to protect natural vegetation, special natural topographic features, faults, or unique views.
  - 2. Significant steep slopes identified by development limit lines on a subdivision plat shall be designated as undevelopable area. Said slopes if retained within the subdivision, shall be designated and maintained as common area and shall be protected from subsequent alteration or encroachment by a vegetation and open space preservation easement granted to Salt Lake City by dedication on the subdivision plat. In no event shall roads traverse such slopes.
  - 3. Undevelopable area shall not be used to determine the minimum lot size as required by the underlying zone, unless specifically approved by the planning commission through the planned development review process.
  - 4. ~~Once established on the subdivision plat, the development limit line shall be delineated on all building permit site plans and shall be staked in the field prior to construction on any lot affected by the development limit line.~~For independently owned parcels in the foothills residential zoning districts that do not meet the minimum project size for a planned development per the zoning ordinance, the planning commission or its designee may count slopes

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over 30% toward meeting the minimum zoning required lot area of the underlying zone where the planning commission finds that:

- a. The parcel fronts on an existing dedicated public street.
- b. The parcel has a minimum of 1,500 square feet of net buildable area. The net buildable area shall not include any areas of 30% or greater slope or the required zoning setbacks or the portion of the transitional area that lies within the required 10 foot minimum setback or 20 foot average setback from the proposed development limit line, as defined by the Salt Lake City Zoning Ordinance.
- c. The parcel has city sewer and water services that are located or can be extended to access the lot directly from the street.
- d. The applicant must present a construction plan, acceptable to the planning director, which demonstrates the ability to manage staging for construction in a manner that will not impact transitional or steep slope areas.
- e. The proposed development on the parcel is compatible with the surrounding neighborhood and will not have a material net cumulative adverse impact on the neighborhood or the city as a whole.

- 5. Once established on the subdivision plat, the development limit line shall be delineated on all building permit site plans and shall be staked in the field prior to construction on any lot affected by the development limit line.

H. Solar-Oriented Requirements...(no changes from prior PC recommendation)

**18.28.50 INDEPENDENT SITE DEVELOPMENT ACTIVITIES**

- A. General Application...(no changes from prior PC recommendation)
- B. Permit Application...( no changes from prior PC recommendation)
- ~~C. Foothill Development Overlay Zone Reports...~~(no changes from prior PC recommendation)
- ~~D.~~ Granting Permit...( no changes from prior PC recommendation)
- ~~E.~~ Inspections...( no changes from prior PC recommendation)
- ~~E.~~ **Grading and Erosion Control Design Standards and Regulations.**

4. Finished Cuts and Slopes. Limitations shall be applied to the extent of cut and fill slopes to minimize the amount of excavated surface or ground area exposed to potential erosion and settlement.

- a. The exposed or finished cuts or slopes of any fill or excavation shall be smoothly graded.
- b. All cut and fill slopes shall be recontoured and revegetated by the subdivider in accordance with an approved plan.
- c. Cut or fill slopes shall normally be limited to 15 feet in vertical height. However, upon review and favorable recommendation of the ~~City Engineer~~ and ~~public utilities director~~ the ~~Planning Commission~~ building official may ~~recommend that the Mayor~~ approve cut and fill slopes exceeding 15 feet provided that such variations be allowed on a limited basis after thorough review of each request and only when balanced by offsetting improvements to the overall aesthetic, environmental, and engineering quality of the development.
- d. No excavation creating a cut face and no fill creating and exposed surface shall have a slope ratio exceeding one and one half horizontal to one vertical.
- e. Exceptions.
  - i. No slopes shall cut steeper than the bedding plane, fracture, fault, or joint in any formation where the cut slope will lie on the dip of the strike line of the bedding plane, fracture, fault, or joint.
  - ii. No slopes shall be cut in an existing landslide, mud flow, or other form of naturally unstable slope except as recommended by a qualified geological engineer.

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- iii. Where the formation is exposed above the top of the cut which will permit the entry of water along bedding planes, this area shall be sealed with a compacted soil blanket having a minimum thickness of two feet. The soil for this blanket shall be relatively impervious and shall be approved by the Soils Engineer or Engineering Geologist.
- f. If the material of a slope is of such composition and character as to be unstable under the anticipated maximum moisture content, the slope angle shall be reduced to a stable value or retained by a method approved by the City Engineer and certified as to its stability by a soils engineer or geologist. Said retaining method shall include design provisions which are:
  - i. conducive to revegetation for soil stability and visual impact;
  - ii. used for selected areas of the site and not as a general application; and
  - iii. limited to tiers each of which is no higher than six feet, separated by plantable terraces a minimum of two feet in width;
- g. Any retaining system shall remain and be maintained on the lots until plans for construction are approved and a building permit is issued. The plans shall include provisions to integrate driveway access to the lot while maintaining the structural integrity of the retaining system.
- h. The Building Official may require the slope of a cut or fill to be made more level if at any time it is found that the material being, or the fill, is unusually subject to erosion, static or dynamic instability, or if other conditions make such requirements necessary for stability.

~~G. Special Canyon Site Development Standards...~~

**18.28.60 INTERPRETATION, PERMIT PROCEDURE, APPEALS, GROUNDS FOR DENIAL, AND ENFORCEMENT ACTIONS**

**A. Interpretation - Conflicts.**

1. Minimum Requirements. In their interpretation and application, provisions of this Chapter shall be held to be minimum requirements, except where expressly stated to be maximum requirements. No intent is made to impair, or interfere with, any private restrictions placed upon any property by covenant or deed; provided, however, that where this Chapter imposes higher standards or greater restrictions the provisions of this Chapter shall govern.
2. Application of most Restrictive Standard. Whenever any provision of this

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Chapter or any other provision of law, whether set forth in this Chapter or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations over the development of land, the most restrictive standards or requirements shall govern.

**B. Retention of Plans.** Plans, specifications, and reports for all site development submitted to Salt Lake City for approval shall be retained by Salt Lake City.

**C. Expiration, Renewals, and Extensions of Permit.** Every site development permit or approval shall expire by limitation and become null and void if the work authorized by such permit or approvals has not been commenced within ~~120~~180 days, ~~or is not completed within one year from date of issuance if the work is suspended or abandoned for a period of 180 days at any time after the work is commenced. Extensions and renewals under Sections 18.28.40 and 18.28.50 shall be governed by Section 303 of the Uniform Building Code. Before such work can recommence, the permit shall first be renewed by the building official and the renewal fee shall be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans or scope of such work, otherwise a full fee may be required as determined by the building official. Any modifications to the original approved work that is related to a development for which the Salt Lake city Planning Commission granted approval, may require subsequent review and decision by the planning commission as determined by the planning director. However, the Building Official may not approve any modification to approved plans without prior approval of the Planning Commission conducted under Section D below.~~

~~**D. Action by Planning Commission.**~~

~~1. Consideration of Application or Plans. Whenever the Planning Commission's review and/or approval of proposed plans or applications involving site development activities is required under this Chapter, the matter shall be placed on the Planning Commission's agenda at a regularly scheduled meeting. Said meeting shall be conducted in conformance with the applicable requirements of the Open Meetings Act. A copy of said agenda may be sent to the applicant, subdivider, and/or developer and to each adjacent property owner as a courtesy. Failure to mail or receive such notice shall not be a fatal defect. In its discretion, the Planning Commission may also set and hold a special hearing on the pending application where the public and interested parties may have an opportunity to offer testimony. In such event, notices of the public hearing may be sent at least seven days prior to the date of the hearing by the Planning Department to parties specified above, together with such other additional property owners or parties as the Director, in his discretion, may believe to have a substantial interest in, or be substantially affected by, the proposed work. The Planning Commission may also direct that the notice of public hearing be advertised by publication.~~

~~2. Action Upon Application. Upon completion of a hearing, if required, and after~~

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~~consideration of the application, recommendations of the City Engineer, Building Official, or Planning Director, and evaluation of compliance with the provisions of this Chapter, the Planning Commission shall:~~

- ~~a. Upon finding that the plan as it stands, or with modifications, can comply with the provisions of this Chapter, approve the application as submitted or approve a modified plan imposing such reasonable terms or conditions as may be necessary to substantially secure the objectives of this Chapter.~~
- ~~b. Upon finding that the work proposed by the application is contrary to the purpose or provisions of this Chapter, or factors set forth in Section 47-6-6 18.28.60.F as grounds for denial, the Planning Commission shall disapprove the application for a Site Development Permit or approval.~~

- ~~3. Notice of Decision – Appeal. The applicant shall be informed by letter of the Planning Commission’s action. Said action is subject to administrative appeal within 30 days of the date of such written notice as provided in Section E. below.~~

**E. Appeals.**

- ~~1. Time Limitation for Notice of Appeal. Any applicant aggrieved by a determination of any administrative official in relation to this ordinance may appeal such determination to the Planning Commission by filing a written notice of appeal with the Planning Commission secretary within 30 days after the date of notification of the administrative official’s determination. Any applicant aggrieved by a determination of the Planning Commission may appeal such determination to the Mayor appeals hearing officer pursuant to Section 21A.16.030 of the zoning ordinance by filing a written notice of appeal with the City Recorder within 30 days after the date of notice of the Planning Commission determination. The City Recorder shall then schedule the matter for hearing before the Mayor. Said hearing shall be scheduled at least 10 days prior to the date of hearing to enable the City Recorder to give 10 days notice by mail to the Planning Commission, applicant, and any other interested party who has submitted for such purpose a self addressed, stamped, envelope. Advertised publication of the Notice of Hearing is not required. The administrative decision of the Mayor shall be final and shall be reduced to writing and mailed to the applicant and Planning Commission.~~
- ~~2. Effect of Administrative Appeal. In the event of a notice of an appeal pursuant to the provisions above, the effect of such filing of notice shall act to stay any and all further action and work pending the determination of the matter on administrative appeal.~~
- ~~3. Nature of Hearing. Appeal of an administrative determination shall be a de novo proceeding before the Planning Commission. A further appeal of the Planning Commission decision before the Mayor is not a de novo proceeding. The~~

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~~administrative appellate review focus of the Mayor should be to objections, or alleged errors in the action of the Planning Commission which were unreasonable related to the application or plans before it. Based on the Mayor's administrative findings, the Mayor may affirm, reverse, or otherwise modify or remand the decision of the Planning Commission and may impose as conditions to approval such conditions as are deemed reasonably necessary to secure the objectives and compliance with the provisions of this Chapter. The Mayor's action upon the administrative appeal shall be reduced to writing within 30 days after the date of hearing. Should the Mayor fail to render a decision on the application within 30 days, the action of the Planning Commission shall be deemed to be affirmed.~~

~~4. Judicial Relief – Time Limitation. Any person seeking judicial review of the Mayor's action by certiorari must file an appropriate petition for judicial review with a court of competent jurisdiction within 30 days of the date of the Mayor's decision.~~

F. **General Grounds for Denial.** Factors, in addition to deviation from provisions of this Chapter, which may be grounds for denial of a Site Development Permit or approval shall include, but not be limited to:

1. Possible or potential saturation of fill and/or unsupported cuts by water (both natural and/or domestic);
2. Run-off surface waters that produce unreasonable erosion and/or silting of drainage ways;
3. Subsurface conditions (such as rock strata and faults, soil or rock materials, types of formations, etc.) which when disturbed by the proposed site development activity, may create earth movement and/or produce slopes that cannot be landscaped;
4. Result in excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

G. **Prohibited Activities.**

1. Removal of Topsoil. It shall be unlawful to remove topsoil for purposes of resale when unrelated to a bona fide purpose of site development contemplated under this Chapter. The provisions of this Chapter shall not be construed as permitting the removal of topsoil solely for resale.
2. Nuisance. It shall be unlawful to create or maintain a condition which creates a public or private nuisance. After notice by the City, owners shall be strictly responsible to take any necessary action to correct or abate such nuisance. Further, this Chapter shall not be construed to authorize any person or owner to create or maintain a private or public nuisance upon real property and compliance

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with the provisions of this Chapter shall not be a defense in any action to abate such nuisance.

**H. Permit or Approval Revocation.** In the event the Building Official or City Engineer requests that a Site Development Permit or approval be permanently suspended or revoked, they shall formally request a revocation hearing before the Planning Commission in compliance with the following procedures.

1. Request. The request shall specify the grounds for complaint or details of deviation with terms and conditions of the approval that justify the proposed permit or approval revocation or suspension.
2. Public Hearing. The Planning Commission shall hold a formal hearing to consider requests and recommendations for permanent revocation or suspension of permits at the next regularly scheduled meeting of the Planning Commission, at which service of the required notice can be satisfied.
3. Notice. The Planning Commission shall cause notice of the time and place of the scheduled hearing to be prepared. Such notice shall be delivered by certified mail or personal service upon the permittee at least five days prior to the date set for the hearing. At any such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence. Upon conclusion of such hearing, the Planning Commission shall determine whether or not the permit shall be suspended or revoked, and any necessary or appropriate conditions which must be satisfied prior to the renewal or extension of said permit, including any necessary corrective measures to be completed as provided in Subsection “2” below.
4. Planning Commission Determination. Upon the conclusion of the required hearing and its deliberations thereon, should the Planning Commission find that the permittee, or authorized agent(s), have violated the terms of the permit or provisions of this Chapter, have conducted or desire to carry out such site development activity in such a manner which unreasonably adversely affects the health, welfare, or safety of persons residing or working in the vicinity of the site, or have caused the same to be done, the Planning Commission may, as it deems appropriate:
  - a. Require necessary corrective measures to be undertaken and completed at permittee’s expense;
  - b. Require reimbursement to the City for unusual costs incurred by the necessitation of enforcement action including costs of inspections, mailings, expert technical assistance, etc.;
  - c. Continue suspension of all work contemplated or associated with the permit



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permanently until corrective requirements and/or original conditions are satisfied;

- d. If circumstances of work conducted have resulted in factors which would have been grounds for denial of the permit, the Planning Commission may order such necessary actions as required to restore the site, insofar as possible, to the preexisting conditions, and revoke the site development permit. If so evoked, and where appropriate, the Planning Commission may preclude acceptance of any site development application for the same site for a period not to exceed 12 months.
  5. Appeal. The decision of the Planning Commission on a request for permanent suspension or revocation of a site development permit or approval under this Chapter may be appealed by the permittee, Building Official, or City Engineer to the ~~mayor~~ appeals hearing officer pursuant to Section 21A.16.030 of the zoning ordinance as provided in Section \_\_\_ above.
- I. **Property Owner Responsibility.** Property owners are responsible to maintain their property in a safe, non-hazardous, condition and to otherwise comply with the provisions of this Chapter and other applicable ordinances. Failure of City officials to observe or to recognize hazardous or unsightly conditions, or to recommend denial of the site development permit, shall not relieve the permittee, or property owner, from responsibility for the condition or damages resulting therefrom. Nor shall such action result in the City, its officers, or agents, becoming responsible or liable for conditions and damages resulting therefrom.
- J. **Violation and Penalties.**
1. Violation of Chapter. It shall be unlawful for any person to construct, enlarge, alter, repair, or maintain any grading, excavation or fill or cause the same to be done, contrary to or in violation of any provision of this Chapter.
  2. Obstruction Prohibited. It shall be unlawful for any person to willfully or carelessly obstruct or injure any public right-of-way by causing or permitting earth or rock to slump, slough, or erode off private property onto the public right-of-way.
  3. Flooding. It shall be unlawful for any person to willfully or carelessly obstruct or injure any public right-of-way by causing or permitting flow or seepage of water, or by willfully or carelessly causing or permitting water under his/her control, possession, or supervision to escape in any manner so as to injure any street or public improvement.
  4. Misdemeanor Penalty. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof

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during which any violation of any of the provisions of this Chapter is committed, continued, permitted, or maintained. Upon conviction of any such violation, such person may be imprisoned for a period not exceeding six months or be fined in the amount not exceeding \$299.00 if the person is an individual, or the greater amount of \$2,000.00 in the event the person is a corporation, association, or partnership, or both so imprisoned or fined.

**K. Severability.**

1. Severability. If any section, subsection, sentence, clause, or phrase of this Chapter 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 of this Chapter. The City Council hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases hereof may be declared invalid or unconstitutional.
2. Limitation to Applied Facts. If the application of any provision or provisions of this Chapter to any person, property, or circumstance is found to be unconstitutional, invalid, or ineffective, in whole or in part, by any court of competent jurisdiction, or other competent agency, the effect of such provision shall be limited to the person, property, or circumstance immediately involved in the controversy and the application of such provision to other persons, properties, or circumstances shall be unaffected unless the court specifically rules otherwise.