Ordinance 2017-2 – An Ordinance amending ordinances 13.30.030, 12.110.050, 12.110.070, 12.120.050, 12.150.020, 12.150.060, 12.150.080, 13.20.000 to remove the Open Space option in subdivisions, allowing only bonus density as an option to a standard subdivision.

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13.30.030 Preliminary Plat

The subdivider shall submit the Preliminary Plat in each of the following formats:

1. ~~seven (7)~~One ~~copy~~ies ~~of the preliminary plat, at least~~ 11”x 17”~~, for the LUA and the Planning and Zoning Commission members to review.~~,
2. One ~~Three~~ copy~~ies~~, 24” x 36” ~~for the City Engineer, Fire Chief and Land Use Authority shall also be provided for review. One copy of the plan reduced to an 8 ½" x 11" paper shall also be submitted.~~, and
3. One digital copy.

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If the preliminary plat is not submitted to the LUA for approval within twelve (12) months from the date of the LUA’s communication of requirements and recommendations to the developer, a new sketch plan must be submitted for consideration to the LUA and/or City engineer before the developer can proceed with the preliminary plat.

The plat shall be prepared on a twenty-four (24") inch by thirty-six (36") inch approved reproducible drafting media. It shall have a one and one-half (1 ½) inch border on the left and a one-half (½) inch border on the three remaining sides. The plat shall be drawn to a scale of not smaller than one (1") inch equals one hundred (100') feet and shall indicate the base of bearing true north. A workmanlike execution of the plat shall be made in every detail. A poorly drawn or illegible plat is sufficient cause for rejection. Copies of the plat shall be submitted ten days prior to the next scheduled LUA meeting. If said copies are not submitted beforehand, the LUA shall postpone its consideration thereof until its next scheduled meeting. The City engineer’s review comments shall be transmitted to the LUA and the Planning & Zoning Commission for their consideration with the preliminary plat. After approval of the LUA the Planning Commission shall hold a public hearing.

At the same time the preliminary plat is transmitted to the City the preliminary plat fees shall be paid. (See prevailing fee schedule)

A. Existing conditions to be shown on the preliminary plat shall include:
   1. The location of the nearest benchmark and monument
   2. The boundary of the proposed subdivision and the acreage included.
   3. All property under the control of the subdivider, even though requirements of the preliminary plat need be shown on only the phase under consideration.
   4. Location, width and name of existing streets within two hundred feet (200) of the subdivision and of all prior platted streets or other public ways, railroad and utilities rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements, and section and corporate lines within and adjacent to the tract.
   5. The location of all wells--proposed, active and abandoned--to a distance of at least one hundred (100') feet beyond the tract boundaries.
   6. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred (100') feet beyond the tract boundaries, indicating pipe size, grades, manholes and exact location.

7. Existing ditches, canals, natural drainage channels, open waterways, and proposed alignments within the tract and to a distance of at least one hundred (100') feet beyond the tract boundaries. High water levels should be indicated.
8. Boundary lines of adjacent tracts of subdivided and unsubdivided land showing ownership.
9. Location of all sensitive lands.
10. Contours at a minimum interval of two (2') feet.

B. Proposed subdivision development plans on the preliminary plat shall include:
1. The layout of streets showing location, widths, and other dimensions of proposed streets (designated by actual or proposed names and numbers) crosswalks, alleys and easements.
2. A tentative plan for culinary water improvements and waste disposal improvements for all lots proposed within the subdivision, all to be constructed underground.
3. The layout, numbers and dimensions of lots.

a. **~~Traditional~~ Standard Subdivision**. The total number of dwelling units allowed within a ~~traditional~~ Standard ~~s~~Subdivision shall be based on each lot equaling the minimum lot area as required in the zone, with roads and other improvements within a subdivision being in addition to the lots.

~~a.~~

~~b.~~ **~~Planned Residential~~ Subdivision ~~with Bonus Densithy~~with Bonus Density**. ~~All planned residential subdivisions shall contain some form of usable open space as described below:~~

~~(1) The total number of dwelling units allowed within a planned residential subdivision where usable open space is included within the boundaries of the subdivision shall be based on the following Net Table, which subtracts space for roads and other improvements within a subdivision: Zone Allowed Density in Dwelling Units/Acre A-1 0.86 RE-20 1.80 Formula: Parcel sizes acres x allowed density from table above = total allowed dwelling units within planned residential subdivision. Example: 20 acre land parcel; in A-1 zone x .86 = 17 dwelling units allowed in project b.~~

~~(2)~~b. ~~At the option of the sub-divider and upon recommendation of the LUA and the Planning and Zoning Commission to the City Council, and their subsequent approval, usable open space, as described herein, may be exchanged for another designated open space location in the City by way of the "bonus density option" as herein defined.~~ Bonus density ~~option~~ allows for the purchase of designated open space in the City for the exchange of usable open space within a subdivision, thereby creating an additional building lot or lots in said subdivision. All of the requirements below must be complied with to exercise this option:

~~(1) A request, in writing, by the developer to the LUA to exercise the bonus density option must be made as a part of the Preliminary Plat showing the usable open space that would become a lot or lots. The LUA will review this request to exercise the bonus density option and will compare it with all other regulations in the Subdivision Ordinance to determine compliance. Following this review and not later than thirty (30) days after said review the LUA will communicate its requirements and recommendations to the developer in preparation to forwarding the Preliminary Plat to the Planning and Zoning Commission.~~

(1) The allowed number of dwelling units permitted in the ~~s~~Subdivision with~~utilizing the~~ ~~b~~Bonus ~~d~~Density ~~option will be~~is determined by the Gross Table shown below:

Zone Allowed Density in Dwelling Units/Acre:

Zone	# Lots per acre	Subdivision with Bonus Density	Minimum size of each lot
A-1	One (1)	Before improvements	20,000 square feet
RE-20	Two (2)	Before improvements	12,000 square feet

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~~A-1 1.0 per one acre RE-20 2.0 per Zone Minimum Required Acreage that becomes Bonus Density Lots Subject to the Minimum Lot size per zone A-1 .14 of the project total acreage RE-20 .20 of the project total acreage~~ Bonus Density lots are calculated at six percent (6%), rounded upwards, of the total acreage.

Example: 40-acre land parcel

~~(2) Example: 20-acre land parcel; in A-1 zone x .14 = 2.8 or 3 Bonus Density Lots required in project, may equal 2 of the larger lots of the project if determined by the LUA and City.~~

Zone	Number of Bonus Density Lots Required
A-1	40 x 0.06 = 2.4 or 3 Bonus Density Lots
RE-20	40 x 2 x 0.06 = 4.8 or 5 Bonus Density Lots

~~(3)~~ Bonus Density lots shall be identified on the Preliminary Plat. Bonus Density lots shall be equal to or greater than the average size lots of the subdivision. The amount paid by the developer to the City as a part of the option would be equal to 90% of the appraised value of the improved lot(s). The 90% will be paid to the City when the lot(s) is sold, but not later than when 50% of the lots in the subdivision are sold. If the City has not received the bonus density money prior to 50% of the lots being sold, the developer ~~may~~ shall deed the lot to the city, where the future sale of the lot will result in the City retaining 100% of the money. The lot(s) to be used in the bonus density option shall be identified by number on the ~~Final~~ Preliminary Plat ~~prior to the time the subdivision final plat is approved by the City Council~~.

~~(4)~~(2) Money received from the developer by exercising the bonus density option shall be placed in a restricted fund to be used for the purchase of property for parks, trails, and other appropriate usable open space and/or for improvements to existing parks, trails and other appropriate open space. Wherever possible, the city should consider investing funds generated from a particular development into parks, trails, and other appropriate usable open spaces that are accessible to the residents of that development within a reasonable walking distance of their homes. It shall not be used for operation and maintenance of parks or in other departments.

~~(3) Purchase of land outside of the subdivision as determined by the City Council, allowing a bonus density payment of less than the required 90% based on an up front cash amount being paid to the city for the purchase of said land as a part of the Development Agreement. If the developer or owner of property believes that sensitive lands, as defined herein, are in error or that the extent of sensitive lands is inaccurate, it shall be the responsibility of the developer or owner to provide the LUA and the Planning Commission with studies or data necessary to determine extent and nature of sensitive lands to remain in open space. Certain areas of the City may possess qualities that may appear to be sensitive lands, but may require further study to determine whether such lands should be classified as sensitive lands. This condition will particularly apply to transitional areas around sensitive lands. The City may include such areas within the sensitive lands category and further require those developing the property to produce evidence, with the help of professionals in the particular field, for the LUA and the Planning Commission to determine the final classification of lands. Type of Ownership in Usable and Other Open Spaces. Different ownership and management options are available for the permanently protected usable open space created through the Subdivision Ordinance. At its option, the City may accept a public land dedication for usable open space, or to facilitate trail connections. A private open space management plan describing 1) ownership, 2) use and 3) maintenance responsibilities of privately managed open~~

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~~spaces shall be submitted for all common and public improvements, utilities and open space within undivided lands. Sensitive lands shall remain as undivided open space and may be owned and managed by a recognized land trust or conservancy, or an owner/developer.~~

~~c. Ownership Standards. Usable open space within a development shall be owned, administered and maintained by any of the following methods, either individually or in combination, and subject to approval by the City Council:~~

~~(1) Offer of Dedication. The City shall have the first and last offer of dedication of usable open space in event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The City may, but shall not be required to, accept usable open space provided such land is fully improved and accessible to the residents of the City, there is no cost of acquisition or other than any cost incidental to the transfer of ownership such as title insurance, and the City agrees to and has access to maintain such lands.Where the City accepts dedication of usable open space, it must contain all required improvements, therefore the City may require the posting of financial security to ensure satisfactory functioning and structural integrity of improvements for a term not to exceed twelve (12) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.~~

~~(2) Homeowners Association. The open space and associated facilities may be held in common ownership by a Homeowners Association, which must be organized into a formal entity recognized by the State of Utah. The Association shall be formed and operated under the following provisions: the developer shall provide a description of the Association, including its bylaws and methods for maintaining the open space; the Association shall be organized by the developer and be operated with financial subsidization by the developer before the sale of any lots within the development; membership in the Association is automatic (mandatory) for all purchasers of homes or lots therein and their successors. The conditions and timing of transferring control of the Association from developer to Homeowners shall be identified; the Association shall be responsible for maintenance of insurance and taxes on the open space, enforceable by liens placed by the City; the members of the Association shall share equitably the costs of maintaining and developing such usable and other open space. Shares shall be defined within the Association by bylaws.~~

~~d.~~c. Zone Restrictions: A minimum of 80% of the building lots in the development shall be within 20% +/- of the average lot size in said development. Any development that does not meet this requirement may be allowed if the Land Use Authority and the Planning Commission feel that the proposed development meets the intent of the ordinance. For example: If the developer wanted to propose several "Estate" lots, comprised of multiple average sized lots, the LUA and Planning Commission could approve the proposal providing the remaining lots are of the required average size. This requirement may be increased or changed by the LUA and the Planning Commission in unusual circumstances caused by the topography of the property such as sensitive lands. Sensitive lands shall not be used in the calculations for allowed density as described in "(1)~~C~~" above.

~~e.~~d. Lot size and building set back lines, including showing dimensions where required by the LUA and the Planning Commission. Minimum lot area, width and yard requirements for ~~planned residential s~~Subdivisions with Bonus Density shall be required in this ordinance and/or shown in the zoning ordinance for the respective zone it is being developed in.

~~f.~~e. Each lot or parcel of land intended for occupancy purposes shall contain a primary building site appropriate to accommodate the primary structure, which building site shall be outlined on the preliminary and final plat. Each building site shall be located in compliance with all applicable setbacks, side yards, and rear yard requirements. Each building site shall require the following:

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(1) A natural or manmade average slope of twenty percent (20%) or less in any direction across the building site. Grading of the parcel or lot related to creation of the building site or construction of the structure shall not extend more than thirty (30') feet in any direction from the proposed structure, unless a greater distance is approved by the City Council upon recommendation by the Planning Commission and/or the City Engineer upon a showing by the developer that a greater distance will not be contrary to the purposes of this ordinance. In no case shall grading for the building site extend beyond the property line of the lot.

(2) Building sites for accessory building or structures such as barns, tennis courts, swimming pools, outbuildings, etc. shall be approved by the City Council upon recommendation of the LUA, the Planning Commission and/or the City Engineer.

~~g.~~f. Dedicated easements for water, sewers, drainage, utility lines and other purposes as required by the LUA and the Planning and Zoning Commission. A five (5) foot utility easement shall be shown around the perimeter of all lots.

~~h.~~g. A tentative plan or method by which the subdivider proposes to retain storm water, or methods to discharge the same in compliance with the Hyde Park City Storm ~~w~~Water Plan and/or Ordinance.

~~i.~~h. Sites, if any, for community facilities or other uses exclusive of the single-family dwellings.

~~j.~~i. Sidewalk, curb and gutter.

~~k.~~j. Distribution system for irrigation water to each lot, how shares will be held and how irrigation water will be delivered to the project. All irrigation distribution lines shall be outside of the City right-of-way. A letter from the associated irrigation company agreeing to proposed distribution system shall be submitted.

C. Title blocks along the bottom of the preliminary plat shall show the following information in the format as specified:

1. Name of subdivision; location, including the address of the section, township and range; names and addresses of the owner, subdivider (if other than owner), and surveyor or designer of the subdivision; date of plat preparation.
2. An affidavit or certificate of clear title to the effect that the applicant is the owner of, or that he is authorized by the owner in writing to make application for the land proposed to be subdivided. The affidavit or certificate shall state clearly in which status the applicant makes his application, and if in the latter status a copy of said written authorization from the owner shall be submitted with the preliminary plat. In either case, an updated abstract of title or a preliminary title report shall also be submitted, which indicates in whom the fee simple title to such property is vested.
3. A statement from each of the utility companies involved stating that they have reviewed the plan, that they approve the same as it relates to their particular company, that they are in agreement with placing all their utilities underground within the rights-of-way as shown on the plans, and that they are willing to provide the needed service for the development.
4. A block for the City engineer to sign stating his approval.
5. A block for the Planning and Zoning Commission to indicate its approval by the signature of the Chairman.
6. A block for the Canal / Irrigation Company to indicate its approval by signature.

~~6.~~

D. At the time of the submittal of the preliminary plat the following documents must be submitted to the LUA and the Planning and Zoning Commission unless specifically waived by the LUA.

1. Copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the LUA and the P&Z Commission.

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2. **Environmental impact assessment**, including impact on schools, police, animal control, roads and any impact on sensitive lands.

3. **Water Model**. The developer shall provide an engineered Water Model or the city will obtain one at the expense of the developer.

~~3.~~4. **Soils Report**. A soils report shall be prepared by a qualified soils engineer, and must contain at least the following information: a slope analysis with 5-foot contour intervals; slope classifications shall be identified on a map in percentage of gradients in the following categories: Class 1 - 0% - 19% and Class 2 - 20% or greater (undevelopable); accepted soils engineering tests to determine bearing capacity, settlement potential, and shrink/swell potential of the site; an analysis of the soil suitability, constraints, and proposed methods of mitigating such constraints in implementing the proposed development; an estimate of the normal highest elevation of the season high-water table and the location of swamps, seeps, or spring with the reasons for the occurrence of these underground water sources; a written statement by the person or firm preparing the soils report identifying the means proposed to minimize hazard to life, property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel.

~~4.~~5. **Geology Report** whenever the parcel includes any geologic hazard. A geology report shall be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. It shall include mapping of geologic hazards and must identify author and date of the data upon which the report is based. The report must include an analysis of the geologic conditions, conclusions and recommendations regarding the effect of geologic conditions on the subdivision and recommendations covering the adequacy of sites to be developed. The report must include a written statement by the person or firm preparing the report identifying the means proposed to minimize hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel, and adverse impact on the natural environment.

~~5.~~6. **Storm water Management Plan and Permit**. In accordance with State Code, a Storm water Management Concept Plan shall be required with the preliminary plat for all platted subdivisions and a storm water permit shall be obtained from the State of Utah. The plan shall include at least the following: a map of the entire site with existing and proposed contours using a minimum of 5-foot contour intervals at the same scale as the total design plan; proposed plans and locations of all surface and subsurface drainage devises, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed to control storm water runoff and soil erosion; a plan showing temporary erosion control measures; a written statement by the person or firm preparing the report identifying any grading and drainage problems of the development and further stating an opinion as to the ability of the proposed plan to mitigate or eliminate such problems in a manner as to prevent hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel, and adverse impact on the natural environment. The intent of this conceptual planning process is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff from the development. Where possible all storage reservoirs (retention ponds) shall be incorporated into lots within the project and configured in such a way that the actual depth of the retention area is functional as a part of the landscape of the lots. The maintenance of said retention areas will be the responsibility of the individual lot owners and shall allow the City access for inspection and possible maintenance of the inlet boxes and or piping related with the retention area. Landscaping Plans Required. Landscaping shall conform to the intent of the storm water management concept plan. At a minimum, the landscaping plan shall detail vegetation and grading and shall include any non-standard maintenance requirements that may be associated with the landscaping. The extent of the landscaping plan shall incorporate at a minimum all storm water facilities and shall be submitted with the final plat submittal. Additional landscaping plan requirements may be required by other ordinances.

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~~6.~~7. **Revegetation Plan** whenever the development of the parcel will require removal of vegetation within undevelopable open space. The vegetation plan shall be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject, and shall include the following: a plan of the proposed revegetation of the site, detailing existing vegetation to be preserved, new vegetation to be planted and any modifications to existing vegetation; a plan for preservation of existing vegetation during construction; a vegetation maintenance program, including initial and continuing maintenance necessary; a written statement by the person or firm preparing the report identifying any vegetation problems and further stating an opinion as to the ability of the proposed plan to mitigate or eliminate such problems in a manner as to prevent hazard to life or property, adverse effects on the safety, use or stability of a public right-of-way or drainage channel and adverse impact on the natural environment.

~~7.~~8. **Sensitive ~~l~~Lands report**.

~~8.~~9. Other reports and plans shall be prepared by the developer as deemed necessary by the LUA and the Planning Commission.

The developer must contact the Post Office to determine delivery procedures.

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