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Resource Type:	Regulations
State:	Idaho
Jurisdiction Type:	Municipal
Municipality:	City of Boise
Year (adopted, written, etc.):	2003
Community Type - applicable to:	Urban; Suburban
Title:	City of Boise Foothills Planned Development Ordinance
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Abstract

The Foothills Planned Unit Development (PUD) ordinance is a subsection of the PUD ordinance, the purpose of which is to implement the residential subdivision density aspects of the city's Foothills Policy Plan. It defines the type of subdivision and zoning allowed in the Foothills Planning Area by enabling a "density bonus" technique that allows the trade of density for open space, as long as the trading land is less than 25% slope and greater than 1 acre. The density trade element also provides for sensitive areas such as wildlife corridors, threatened and endangered species, and riparian areas. This is a very innovative ordinance with respect to other local ordinances in Idaho. One case is currently in the process of approval under the ordinance; if approved it will provide a 209-acre park that will directly connect the Boise River Greenbelt to the Foothill Trails system. (Eggleston, pers. comm. 2003)

Resource

Section [11-06-05.07](#) FOOTHILLS PLANNED DEVELOPMENT ORDINANCE

11-06-05.07.01. Purpose and Intent

The purpose of the Foothills Planned Development Ordinance is to implement residential subdivision density and design elements of the *Boise City Foothills Policy Plan* (The Plan) and the *Boise City Comprehensive Plan*. It is also designed to protect and promote preservation of contiguous areas of Foothills open space that contain important and significant natural and cultural resource values, as identified in The Plan and this ordinance.

11-06-05.07.02. Applicability

The Foothills Planned Development Ordinance shall apply to all proposed developments in the Boise City Foothills Planning Area where an annexation and/or rezone is required.

11-06-05.07.03.General Application and Development Requirements

1. All developments shall be processed as Planned Developments (PDs) under Section 11-06-05 of the *Boise City Zoning Ordinance*.
2. Planned development proposals shall include applications for an annexation, a development agreement, a preliminary plat subdivision, a “Hillside and Foothill Areas Development” permit, and where applicable, a floodplain permit. The initial applications may consist of conceptual applications as described in Appendix A, Phase II.
3. Upon annexation the buildable areas of the PD shall be zoned “R-1A,” Single-Family Residential, with the density and design further controlled by the provisions of this ordinance. Slope protection and preserved open space areas shall be zoned “A” Open.
4. Developments shall be required to connect to municipal water and sewer services and participate in other municipal service districts as applicable.
5. Density bonuses do not add to buildable area to be developed, they simply add to the number of units allowed.

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11-06-05.07.04. Density Bonus

A density bonus pursuant to the formula in Table 1 shall be granted in return for the provision of preserved open space.

A. Basic Provisions:

1. The base density on parcels proposed for development is that given for the existing Boise City or Ada County zone(s).
2. The density bonus is based upon the ratio of buildable area to be preserved as open space, to the buildable area to be developed. See the Definitions section for the definition of "Buildable Area."
3. The base density units may be added to the density bonus units without the requirement for additional open space preservation.
4. A developer may propose open space/density bonus points between those identified in Table 1, provided that the curve of the formula is unchanged.
5. The density formula may be adjusted to allow density transfers from other non-contiguous parcels at such time as a Transfer of Development Rights (TDR) ordinance is adopted and in effect..

B. Preserved Open Space Eligible for a Density Bonus as per the formula in Table 1, shall meet the following requirements:

1. Lands of 25% slope or less, one acre or greater in size, with a minimum average width of 30 feet.
2. Public rights-of-way that meet requirements of this section, serve to connect development pockets, and provide access to public open space may be included in the density calculation for open space, but roads within a development pocket shall not be included. Rights-of-way that have dwelling units fronting or siding onto them shall not be included.
3. Other lands classified as Priority Open Space in section C below.

Table 1 - Density Bonus Formula*

(The chart can be found on the .pdf link)

C. Other Open Space Allowances:

The City recognizes that the foothills provide a great degree of variability in landforms, environmental habitats and cultural resources. Some areas may have a combination of characteristics that cause them to be considered worthy of special incentives for preservation, even if they do not meet the normal size, slope or dimensional requirements necessary to qualify as Open Space Eligible for a Density Bonus as per Section 11-06-05.7.4.B above. When these areas are identified on a property and proposed for

preservation, the Planning and Zoning Commission may classify them as Priority Open Space and allow all or a portion of them to qualify for the granting of a density bonus.

In order to qualify for a density bonus, Priority Open Space lands must demonstrate at least four of eleven characteristics established for high priority open space lands. There must also be a demonstrable increase in the public value of the resource by such allowance that would not be realized by strict adherence to the other provisions of this code.

Priority Open Space Characteristics:

Of the following eleven characteristics of high priority open space, at least four must co-exist on a property for consideration as Priority Open Space Eligible for a Density Bonus:

1. Wetlands
2. Riparian areas
3. Rare plant communities
4. Critical deer and elk winter range and migration corridors
5. Boise City Historic Preservation Committee: Potential Public Preservation Sites
6. Unique geologic or visual features
7. Archeologic or other historic sites
8. Trails and trail-heads designated in the Ada County Ridge to Rivers Pathway Plan
9. Other public trails and trail heads as approved by the Boise City Parks and Recreation Board
10. Lands adjacent to publicly-held open spaces
11. Lands adjacent to areas that are, or have the potential to be, designated and set aside as public open space lands in accordance with the provisions of this ordinance.

Criteria for Determining Demonstrable Increase in Public Value of Priority Open Space:

In allowing density bonus credit for priority open space in steeply sloped areas or in fragmented pieces, there must be a demonstrable increase in the public value of the resource by such allowance. Demonstrable increase in value may include but is not limited to the following:

1. Allowance for public access.

2. Protection from alteration of important vegetation, terrain or scenic views and vistas that could otherwise occur from a permitted use such as mining, logging, grazing or construction of utilities or infrastructure.
3. Linkage of interspersed eligible open space areas into a more biologically complete and continuous wildlife corridor.
4. Dedication or discounted sale to a willing public agency.

Planning and Zoning Commission Consideration of Priority Open Space:

It is not the intent of this section to broadly allow the designation of highly fragmented or steeply sloped land as open space, to the total exclusion of the normal requirements of clustering and set aside of buildable area open space. Priority Open Space, when it exists, should be used in balance with other forms of eligible open space to meet the requirements of this code.

When the applicant demonstrates that a portion of his property not otherwise qualified as Open Space Eligible for a Density Bonus as per Section 11-06-05.7.4.B, does meet the above-listed criteria, the Commission may classify it as Priority Open Space and allow some or all of it to qualify for the granting of a density bonus. The amount allowed to qualify as Open Space Eligible for a Density Bonus shall be discretionary based upon the degree to which it meets or exceeds the minimum criteria established in this section. The Planning and Zoning Commission shall seek the input of the Idaho Department of Fish and Game, the Boise City Parks and Recreation Board and other public agencies with expertise in the issue at hand, in determining the proper amount to be allowed to be set aside in return for a density bonus.

D. Golf Courses Allowed in Open Space - Golf courses may be permitted in designated preserved open space areas, provided that they are of the Links type in which players hit from a tee box to a green with the intervening spaces maintained in a primarily natural condition. These golf courses shall be characterized by the use of native plants with natural landform contours left intact. Parking lots, club houses, driving ranges, maintenance facilities and similar golf-related uses shall not be counted as open space contributory to the density bonus. Designated trails and park sites must be preserved in or around the golf course.

E. The following are ineligible for inclusion as preserved open space in the density bonus calculation, except as may be provided in paragraphs "C" of this section:

1. Urban developed uses such as club houses, tennis courts, swimming pools, dirt bike tracks, golf driving ranges and similar uses that dramatically alter land from its natural state, and/or uses that may be considered a commercial land use of the site.

2. Internal park sites. Park sites may only be included as eligible open space when they are left in a primarily natural condition and include a significant opening from the subdivision into a larger designated open space area outside the subdivision.

11-06-05.07.05.General Design Criteria

A. Foothills Planned Developments shall be designed to meet the following general criteria:

1. Residential uses shall be clustered within development pockets rather than scattered throughout the property, while preserving the remaining land in separate parcel(s) of permanent open space.
2. Designated open space areas shall be linked to other open spaces to the greatest extent possible.
3. Road and trail access to adjacent properties shall be provided to prevent landlocked parcels and/or breaks in the trail systems.
4. Disturbance of the land shall be minimized and development shall be avoided in areas that would necessitate excessive grading, cut and fill.
5. Development pockets shall be sited and designed in compliance with policies in The Plan concerning clustering, environmental protection, open space conservation and scenic and aesthetic goals.
6. Fire safety and protection measures to reduce the threat of wildfires shall be incorporated into the design in accordance with *Uniform Fire Code* and *Boise City Code* Title 7. Such measures shall include internal residential sprinkling systems, defensible space for the structures and the provision of safe evacuation routes for residents in case of wildfire.
7. Gated developments are prohibited due to the potential for such limited access to restrict or delay emergency response in the Foothills.
8. The crossing of designated open space, floodways, wetlands and areas of high wildlife habitat value with roads and infrastructure shall be avoided to the greatest extent possible.
9. A mixture of dwelling unit types is allowed, including single family and multi-family units.
10. Neighborhood commercial and service commercial uses are allowed, but they must be designed to reflect and conform to the height, mass, materials and site design of the residential structures in the PD.
11. Setbacks and other dimensional standards may be varied to suit the conditions.

B. Trails are required in Foothills Planned Developments according to the following:

1. There shall be public access to public trails contiguous to and/or intersecting the subject parcel(s).
2. Trail design should preserve the natural scenic and wildlife habitat values.
3. The *Ada County Ridge-To-Rivers Pathway Plan* shall be used as a guide for trail locations.
4. Trails shall be secured through dedication, easement or other such binding mechanism, and shown on the subdivision plat.
5. If no contiguous and/or intersecting public trails exist or are proposed, private trails may be established through the common open space area, provided that the design preserves the natural character and wildlife habitat value of the open space area.

C. The general design and use of preserved open space shall comply with the following requirements:

1. Preserve contiguous areas of open space, both within the subject parcel and adjacent parcels, by aligning them along common corridors to the extent possible.
2. Maintain open space in a "natural condition," ungraded and left in indigenous plant species as much as possible. Noxious and invasive weeds are not considered part of the indigenous plant population and are not protected by this ordinance.
3. Preserve areas of highest wildlife habitat value and contiguous wildlife migration corridors in designated Wildlife Habitat Areas, as defined on the map, Figure 2-1, in The Plan. This requirement is subject to the approval of the Idaho State Fish and Game Department.
4. Preserve unique geologic and historic features, defined as Heritage sites and sites designated for historic preservation by City, State and Federal agencies.
5. Exclude development from geologic hazard areas, specifically landslide areas, and areas with unstable soils.

11-06-05.07.06. Building and Grading Disturbance Envelopes

1. Building envelopes depicting the limits of building footprints shall be shown on the final Conditional Use site plan for all structures and facilities in the planned development.
2. Parcels with slopes greater than 25% shall be shown on the Conditional Use permit with a disturbance envelope that defines the area outside of which no grading will be allowed. The purpose is to protect neighboring properties, stormwater drainage systems, and other infrastructure from the collapse or failure of non-approved poorly designed cuts and fills.

11-06-05.07.07.Ownership and Maintenance of Open Space

Open space areas may be owned and maintained as follows:

1. Owned and maintained by and for the use of the homeowners' association of the project of which it is a part; or,
2. Joined with preserved open space lands held by any neighboring homeowner's association, or, preservation through an organization with adjacent lands held in permanent open space which would then be jointly maintained under an agreement contained in the Conditional Use Permit and/or Development Agreement with the City; or,
3. Dedicated or sold to the city, if recommended for approval by the Boise City Board of Parks and Recreation Commission, or other public agency, or private land trust for open space uses as may be approved in the Development Agreement and/or the Conditional Use and approved by the City Council; or, 4. Other open space preservation strategies under sole or joint ownership, such as deed restrictions, or conservation easements, may be set up, and executed when approved by the city.
5. Where the goals and policies of the *Ada County Ridge-To-Rivers Pathway Plan*, the Boise City Heritage Preservation Committee: *Potential Public Preservation*

Sites plan, Boise City Comprehensive Plans and/or Ada County Comprehensive

Plans and their referenced plans specify the need for public trails or open space, easements for public lands or trails may be required as part of the development's permanent open space. These trails or open spaces may be held in private ownership with an easement, or may be purchased by the city, or dedicated to the city for that use by the landowner(s).

6. Specific agricultural or utility use exceptions may be permitted in open spaces, including livestock grazing, community gardens, irrigation ponds or storm water retention ponds. These uses shall not include buildings or structures except those necessary appurtenances required by those uses, such as dams and irrigation/drainage systems. These use exceptions shall comply with the policies of

The Plan, shall be shown on the conditional use site plan, and shall not degrade the value of the permanent open space.

7. Fencing shall not encroach into or bisect preserved open space areas.

8. The city will accept no responsibility for the costs for maintenance of open space or recreational facilities unless the Boise City Board of Parks and Recreation Commission and the Boise City Council specifically approves such charges.

11-06-05.07.08. Other Foothills Planned Development Requirements

Nothing in this section shall be construed to relieve an applicant from fully meeting other requirements of the *Boise City Foothills Policy Plan*, the “Hillside and Foothill

Areas Development Ordinance,” or other Chapters of the *Boise City Zoning Ordinance*.

11-06-05.07.09. Definitions

AREA WITH A SLOPE GREATER THAN 25%:

An area with a natural (pre-grading) slope greater than 25%, mapped to a minimum resolution of 6,000 square feet in area, also called a Non-Buildable Area.

AREA WITH A SLOPE OF 25% OR LESS:

An area with a natural (pre-grading) slope of 25% or less, mapped to a minimum resolution of 6,000 square feet in area, also called a Buildable Area.

BOISE CITY FOOTHILLS PLANNING AREA:

The area defined in the *Foothills Policy Plan* and the *Boise City Comprehensive Plan* within the Boise City Area of Impact Boundary.

BUILDABLE AREA:

Lands with a slope of 25% or less are buildable areas, if outside floodways or geologic hazards. Buildable areas must be designated in the Conditional Use site plan as either development pockets or permanent open space in the ratio chosen under the density bonus formula. Buildable area is determined by natural topography, not by post-construction graded contours.

DEVELOPMENT POCKETS:

These are the buildable areas designated on the site plan and plat map where the structures and appurtenances will be clustered. These areas will be largely less than 25%

slope but may contain fragments of steeper areas as needed to accommodate the site design.

FOOTHILLS PLANNED DEVELOPMENT:

A parcel or parcels of land which is planned and developed as a unit under single ownership or control, containing several uses, buildings and common open space or recreational facilities. It is a type of development characterized by master planning for the project as a whole, with clustered structures to preserve usable open space and other natural features, with a mixture of housing types within the permitted densities. This development may include neighborhood commercial and service uses.

HERITAGE SITES:

Sites within the Foothills Planning Area with historic, geologic or cultural value, including threatened or endangered species habitat, as listed in the publication *Potential*

Public Preservation Sites, by the Boise City Heritage Preservation Committee, 1993, and other sites designated as historic by City, State or Federal agencies.

NON-BUILDABLE AREA:

Lands with a slope greater than 25% are non-buildable areas and do not qualify as a development pocket, nor are they eligible to be calculated as open space for establishing a density bonus, unless classified as Priority Open Space.

OPEN SPACE ELIGIBLE FOR DENSITY BONUS (ELIGIBLE OPEN SPACE):

An area of one acre or greater in size with a slope of 25% or less and a minimum average width of 30 feet, which is set aside as preserved open space in return for an increase in density on other buildable areas of the site, according to the density bonus formula. Other open space areas which do not meet these criteria may also be counted as open space eligible for the density bonus if they meet the criteria established in section

11-06-05.7.4.C for Priority Open Space, and are approved by the Planning and Zoning Commission.

PERCENT SLOPE:

Percent slope is the vertical rise divided by the horizontal distance within which the vertical rise takes place.

PRESERVED OPEN SPACE:

Land dedicated on the plat and defined in the Conditional Use permit for the very limited uses of undeveloped natural open space, wildlife habitat and recreational uses, and applied toward the granting of a density bonus based upon such open space preservation. Preserved Open Space may be either public or private, or any combination of the two, and shall be permanent.

PRIORITY OPEN SPACE:

Unique lands which exhibit at least four of the eleven characteristics or factors listed in Section 11-06-05.7.4.C. These lands may not meet the size, slope or dimensional criteria for Open Space Eligible for Density Bonus, but may still be allowed to be set aside as preserved open space for purposes of the granting of a density bonus. The type, location and amount of priority open space eligible for a density bonus is to be determined by the Planning & Zoning Commission based upon how many of the priority open space factors they exhibit, as well as upon a demonstration that the public value of the open space will be enhanced by such allowance.

RIPARIAN AREAS:

Relating to or living or located on the bank of a natural water course as a stream or river. The stream corridor consisting of riparian vegetation, stream carved topography and features that define a continuous corridor on either side of a stream or pond therein.

SLOPE PROTECTION AREA:

This is a non-buildable area with a slope greater than 25% that does not qualify as buildable area for the density bonus within either a development pocket or preserved open space, and is designated as such on the conditional use site plan and the subdivision plat.

Appendix A

Application Submitting Requirements:

The following items are required for a Foothills Planned Development application, in addition to those items required for submitting of a standard Planned Development application under Section 11-06-05, and a "Hillside and Foothill Area Development" permit application under Section 11-14.

1. A slope analysis in map and table form depicting areas and polygon labels for:
 - a. All buildable areas, based on two foot contour intervals;
 - b. All non-buildable areas based on five foot contour intervals;
 - c. Buildable areas equal to, or greater, than one acre in size labeled as such on map and table.

2. A special area analysis in map and table form depicting the general locations of:
 - a. Floodways, floodway fringes, wetlands and riparian areas;
 - b. Deer and elk migration corridors as determined by the Idaho State Fish and Game Department and found on maps referenced in The Plan;
 - c. Location of rare, threatened and endangered plant species and communities regulated under the Endangered Species Act of 1973, and administered by U. S. Fish and Wildlife Service Division of Endangered Species;
 - d. Geologic and/or historic features of note and sites designated as Heritage sites.
 - e. Potential buildable ridge tops visible as skyline features from below the Foothills.
3. A capital improvements/infrastructure analysis and map of existing and proposed locations of roads, sewers, drainage and storm water facilities, utilities, schools, parks and fire stations.
4. A recreation analysis in map and table form as appropriate showing locations of existing or proposed trails as established in the *Ada County Ridge-to-Rivers Pathway Plan*, existing or proposed trail heads, interpretive areas and other facilities.
5. An adjacent parcel analysis of lands within 300 feet of the subject property, in map form, depicting:
 - a. Existing lots and dwellings;
 - b. General topography;
 - c. Existing and proposed public trails designated by the *Ada County Ridge-To-Rivers Pathway Plan*;
 - d. Geologic and/or historic features of note and sites designated as Heritage sites;
 - e. Public rights-of-way and potential road access points.

Foothills Planned Development Design Process and Application Form Checklist:

The intent of the process is to allow the applicant and staff to work together to insure that there is a clear understanding about the critical issues prior to the application submitting

and throughout the hearings. The applicant should follow this order of events in analyzing, designing and applying for the project.

Phase I - Pre-application:

1. Meet with the city staff about basic design issues before development of a conceptual design.
2. Meet or confer with surrounding landowners about the potential for cooperative development plans.
3. Do a sketch map of the project area and adjacent parcels showing general soil characteristics, slopes, wildlife habitat, permanent open space and/or public lands, drainage courses, unique geologic and historic features, public trails, and other features of note.
4. Meet with city staff about design issues based on sketch map findings.

Phase II - Preliminary/Conceptual Design requirements for Annexation, Development Agreement, Conceptual Conditional Use, Conceptual Preliminary

Subdivision Plat, Conceptual Hillside and Floodplain permit applications:

5. Map potential buildable areas.
6. Determine which preserved open space/cluster density formula will be applied based upon site characteristics, access and market constraints.
7. Identify proposed preserved open space area(s) based upon site characteristics including wildlife habitat values, soil conditions, geologic hazards, access constraints, drainage patterns, unique features, etc.
8. Apply the density bonus formula to the remaining buildable area, according to the Table 1, to determine how many dwelling units may be permitted.
9. Lay out the cluster subdivision with roads, drainage system and the appropriate number of lots in the development pockets.
10. Prepare a fire protection plan following guidelines set by the Boise City Fire Department.
11. Prepare a traffic analysis and traffic plan consistent with requirements of the *Destination 2020 Regional Transportation Plan for Ada County* and its subsequent amendments and updates.

12. Prepare a traffic mitigation plan including appropriate neighborhood protection, traffic calming and buffering techniques.
13. Prepare a general grading plan under the conceptual "Hillside and Foothill Area Development" ordinance.
14. Prepare an infrastructure phasing plan.
15. Prepare a building and grading disturbance envelope plan.
16. Complete any other items required by The Plan, The Planned Development Ordinance, Ch. 11-06-05, the Floodplain Ordinance, Ch. 11-12, and the "Hillside and Foothill Areas Development Ordinance," Ch. 11-14.

Phase III - Final Conditional Use, Hillside Permit, Floodplain Permit, Annexation,

Development Agreement and Preliminary Plat Subdivision applications:

17. Meet with city staff about design issues based on conceptual approval findings;
18. Prepare the applications for preliminary plat and final conditional use, Hillside permit, Floodplain permit, a revegetation and reclamation plan and other required applications and plans.

Appendix B

Sample conservation easement document and deed restriction statement:

In reference to the requirements for ownership and maintenance of open space in section 11-06-05.07.07, a sample conservation easement document is provided. This example is taken from the New Hampshire State Code. Conveyances Of Realty And Interests Therein, Conservation and Preservation Restrictions

A conservation restriction shall mean a right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a land or water area, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the area or in any order of taking, which right, limitation, or obligation is appropriate to retaining or maintaining such land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in any other use or condition consistent with the protection of environmental quality.

Appendix C

Maps and guides to the regulated features in the Foothills:

In reference to the requirements for submitting applications in section 11-06-

05.07.12 and 07.13, maps and guides to the features noted will be available to applicants.

Boise City Foothills Policy Plan Goal 1 Objective 2 Policy 1:

1) The Foothills Land Use Map provides a generalized depiction of potentially buildable areas based upon slope. At the time of zone change or development application, the developer shall submit detailed documents depicting wildlife habitat areas, existing slopes, geology and soils. This data shall be used to make more detailed determinations regarding the extent of the buildable area governed by the policies of this plan and the Hillside and Foothill Area Development ordinance;

2) Figure 2-1 Wildlife Habitat Areas;

3) Deer and Elk migration corridors;

4) Boise City Heritage Preservation Committee: *Potential Public Preservation Sites.*

(6023, Added, 12/05/2000)