



AGENDA REPORT

City Council Meeting

TODAY'S DATE: May 22, 2025

MEETING DATE: June 4, 2025

TO: Deb Ruehle, Council President, and members of the City of Sandpoint City Council

FROM: Bill Dean, City Planner; Brandon Staglund, City Engineer; and Jason Welker, Planning & Community Development Director

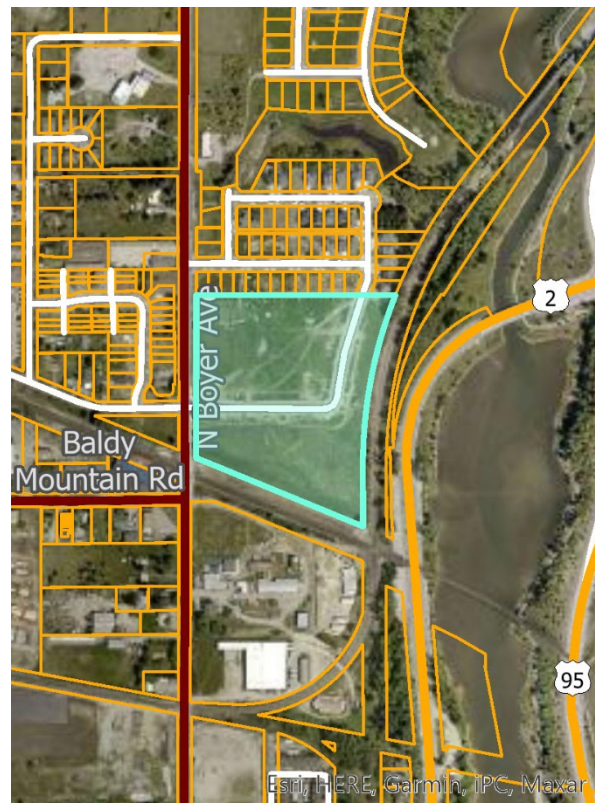
SUBJECT: University Place Phase IV PPUD22-0001 Expiration

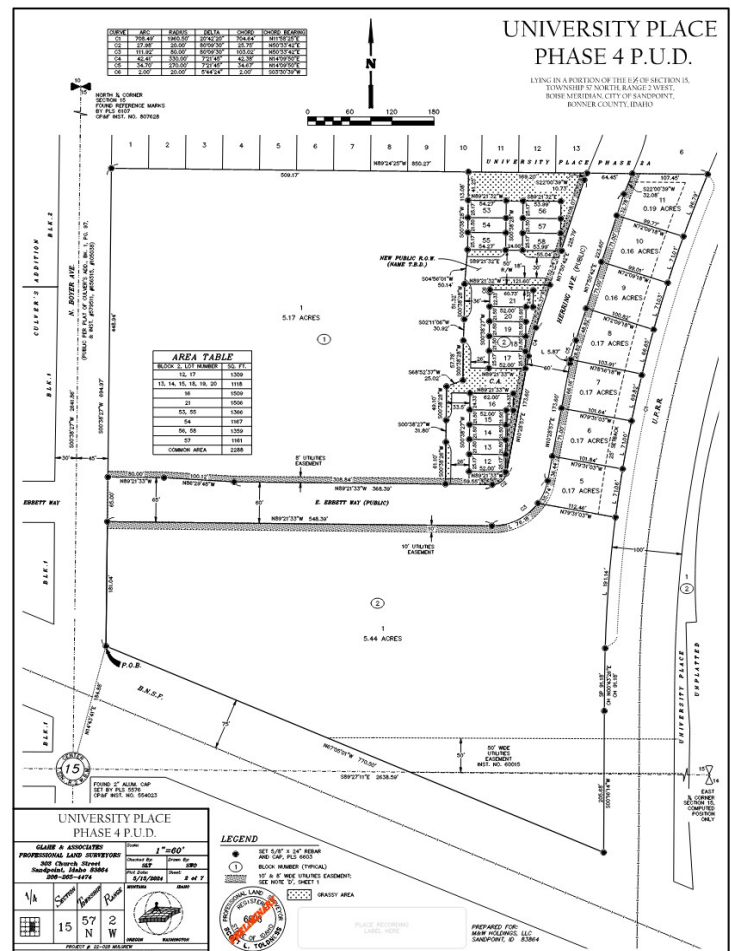
I. Background:

The request before the City Council is from the owner and developer of the University Place Phase IV project related to the expiration of the Planned Unit Development (PUD) that occurred in December 2024. Specifically, City Council is being asked to review the staff determination of the expiration and either affirm it or establish a new expiration date. University Place is a large project with several owners, and this agenda item relates to the development of Phase IV of the University Place subdivision, identified in Figure 1. To understand the complaint by the developer, it is important to understand the project inception and history. To develop the property in a fashion that differed from City standards the developer sought and obtained a rezoning of the Phase IV area and a special land use permit called a Planned Unit Development permit (PUD) which placed both benefits and burdens on the property owner in exchange for significant waivers from City standards.

As is common in land use approvals involving rezonings, a development agreement was required stipulating performance standards the developer had to meet in order to enjoy development rights with the new zoning and PUD permit. Such enables cities to ensure that the ideas brought forward to garner support in exchange for changing regulations (zoning designation and standards) are brought to fruition by the developer in a reasonable timeframe.

The main tool, in addition to development agreements, that cities have to compel performance is an expiration date on the permit. Timeframes for performance are replete in land use matters involving permits and subdivisions and clear timeframes are established in city ordinances state-wide so that the function of permit issuance doesn't stifle cities' progresses and ability to adapt to changing community needs, or burden property owners with outdated approvals. It is also common for city ordinances to clearly state how the life of a permit





- **9/20/2022:** Public Hearing before the Planning and Zoning Commission to rezone the Phase 4 area, review a Planned Unit Development (PUD) and an Amendment to the Preliminary Plat
- **10/15/2021:** City staff issued a public infrastructure permit to construct utilities and road infrastructure for Herring Avenue and East Ebbett Way.
- **11/2/2022:** City Council approved rezone for University Place Phase 4, the PUD, and the Amended Preliminary Plat, directs that DA ("split" in 2021) be amended to include implementation details from the PUD, such as open space design, for example.
- **4/16/2024:** City staff issued an amended public infrastructure permit to complete utilities and road infrastructure for Herring Avenue and East Ebbett Way. A new contractor and slightly revised plan required an amended permit.
- **11/2/2024:** PUD expired, Preliminary Plat expired
- **11/12/2024:** City Engineer verified that the public infrastructure associated with the permit issued on 10/15/2021 and amended on 4/16/2024 was completed to city standards. However, this public infrastructure was only a portion of what was required under the amended PUD and preliminary plat approved by City Council, and additional public infrastructure remained.
- **12/19/24:** Developer applies for Final Plat for Phase 4a of the Phase 4 Preliminary Plat, triggering comprehensive review for compliance with the City Council approved project, including the condition placed on the project that the DA first be amended to reflect the 11/2/2022 approvals (rezone, PUD, Amended Preliminary Plat). (Preliminary Plats expire after 2 years if no Final submitted)
- **12/31/25:** Developer submits first building permit applications for this development. Submittal is for 5 townhouse units.

Between November 2024 and January 2025 City staff had numerous meetings with the developer trying to understand the status of various requirements.

III. Status of the University Place Phase IV Project at time of Expiration

The following Conditions of Approval were placed on the project by City Council on November 2, 2022. The status of each condition is listed in **bold**

Required Conditions of Approval:

1. The applicant shall prepare Codes, Covenants & Restrictions (CC&Rs) that establish one or more Homeowners Associations (HOAs) and provide that the HOA(s) are responsible for the operation and maintenance of all common areas and open spaces within the boundaries of the PUD and incorporating detailed maintenance standards and provisions for maintenance of the same. **To Date, no CCRs, or Draft CCRs have been provided to staff.**
2. The final stormwater management plan shall be developed in a manner that does not negatively affect the functionality of the open spaces or railroad corridor. **There was no "final stormwater management plan" found on record in the City Council approval of the PUD amendment, plat amendment, and rezone in 2022. However, city staff did issue a public infrastructure permit to construct utilities and road infrastructure for Herring Avenue and East Ebbett Way. The City Engineer has verified that portions of the stormwater plan associated with Herring Avenue and East Ebbett Way were constructed to city standards, but additional public infrastructure required by City Council as a condition of approval of the amended PUD and preliminary plat still remained.**
3. Preliminary Plat, Sheet 5 of 7, dated 6/3/2022: Majority of the proposed accesses throughout Block 1 qualify as purely local drives. Purely local drives do not provide through access and are generally short in length and serve a relatively limited number of lots. Purely local drives shall be publicly dedicated but privately maintained right-of-way, with a minimum width and configuration meeting the International Fire Code. The access south of Lots 59-68 functions as an alley and shall meet the same conditions as the purely local drives.

The primary east/west access, south of Lots 43, 46, 49, 52, 55, and 58, as well as the primary north/south access, east of Lots 40, 35, 30, and 25, do not qualify as purely local drives because they provide a looped-through access to the purely local drives and shall meet the minimum public right-of-way permitted for a Planned Unit Development of 50-feet. The proposed preliminary plat reflects a right-of-way width of approximately 46' along these two primary accesses within Block 1; the construction documents and final plat shall reflect a minimum right-of-way of 50-feet to provide functionality as a local street and enable necessary maintenance and snow storage. This local street shall be publicly maintained; no driveways, other than the purely local drives, may access this local street. **To date, revisions have not been presented to staff showing compliance.**

4. On-street parking: parking on one side of the street shall be permitted where the pavement width is 28' or more and parking on both sides of the street shall be permitted where the pavement width is 36' or more. No parking signs shall be provided wherever these conditions are not met. **Final stamped engineering plans for the "purely local drives" have not been submitted for review and approval by city staff.**
5. Purely local drives shall be privately maintained. The final plat shall provide reference to the responsibility of maintenance and City approved CC&Rs incorporating detailed maintenance standards and provisions. **To date, no CCRs have been presented to staff.**
6. Hammerhead Turnarounds accessing townhouse lots must measure at least 60 ft in both directions from the centerline. **To be addressed through final platting**
7. Due to the proximity of the residential development to the railroad tracks, exterior walls shall have a sound transmission class (STC) of not less than 50, or not less than 45 if field tested, for airborne noise. Penetrations or openings in construction assemblies shall be sealed, lined, insulated, or otherwise treated to maintain the required ratings. **To be addressed during building permit review, which has not occurred.**
8. No lots may be sold, and no building permits can be issued prior to final platting. **No final plat has been approved**
9. Application for street names shall be made with Bonner County.

Conditions of Approval per PUD Requirements:

10. Detailed plans for the open spaces, incorporating staff recommended changes, are provided and incorporated into the Master Development Agreement. **None of the requirements in #10 are shown on the Final Plat, or any other exhibit or drawing.**
11. Detailed landscape plans including the size, type, and location of plant material; automatic sprinklers; location and specifications for all built elements such as paths or benches shall be incorporated into the Master Development Agreement. **No detailed plans have been submitted.**
12. The proposed multi-family development on Lots 1-4 Block 2 shall meet the site design and building standards included in 9-4-2-3-H of the Sandpoint City Code excepting 9-4-2-3-H.6.a pertaining to building height and 9-4-2-3-H.7 pertaining to building orientation toward the street. Said revised plans and building designs shall be reviewed at the building permit site plan review phase. **No building permit applications have been submitted for this development.**

13. The Zoning Standards Table shall be amended to incorporate requirements of **Condition 12** and incorporated into the Master Development Agreement. Other City Codes in place at the time of building permit application shall apply. Modifications to the Zoning Standards Table may only be approved through an amendment to the PUD. **No zoning table has been submitted by the developer.**
14. In accordance with City Code 10-3-10.1, the development shall be initiated within two (2) years of the date of approval. The infrastructure construction and recording of the final plat shall occur within two (2) years from date of approval. The building construction and final certificates of occupancy shall occur in phases and completed within five (5) years from date of PUD approval, as further described and conditioned in the Master Development Agreement. **Compliance has not been met. Building permits for 5 townhomes were submitted after the expiration date. Expiration occurred on 11/2/2024 and applications for building permits occurred on 12/21/2024.**

Required Development Agreement:

The conditions of approval reference a required development agreement (DA) amendment in order to implement the project. A DA is enabled by Idaho Code §67-6511A and regulated under Title 9, Chapter 9 of the Sandpoint City Code (SCC). As stated in SCC §9-9-11:

“A development agreement (the “agreement”) is a discretionary tool to be used by the planning commission (the “commission”) and city council (the “council”). The agreement will allow a change in zoning for a specific project, with a specific use, to be developed on property in an area which may not be appropriate for all uses permitted outright or conditionally within the proposed zone. Approval of the agreement, pursuant to this section, would permit the proposed use, with conditions, within the proposed zone.”

Development agreements are entered into and modified by City Council at public hearings, as established in SCC 9-9-11, as follows:

1. SCC 9-9-11-D establishes the development agreement may only be approved at the sole discretion of the City Council after a public hearing. The original DA for the University Place project occurred at a public hearing on 12-30-2020 and was recorded as instrument number 973949.
2. SCC 9-9-11-G establishes the development agreement may be modified only after public hearing by the City Council. No public hearing has been scheduled to consider amendments to the development agreement stemming from the 2022 approvals. A draft DA was actively being worked on until the point of PUD expiration.

The contents of the draft DA were not resolved at the time the PUD expired. The draft DA is what the conditions of approval refer to as the Master Development Agreement, reflecting the direction provided to staff by City Council in the record for the Phase 4 approvals. At the point of PUD expiration, the draft DA contained 11 exhibits. The DA is intended to include relevant terms and provisions to ensure the details of City Council's action in approving the project are clear. Below are the fourteen City Council conditions of approval from the public hearing dated 11/2/2022. In bold text following each condition is a reference to status and/or where in the draft DA the condition is addressed; if not applicable to inclusion in the DA, then the bolded text will read N/A. Work on the draft DA represents the draft document that was initially developed by previous staff to implement the project. For efficiency, staff refined the Draft that was in the City's files in lieu of writing an entirely new DA. For example, the Draft DA relies on a series of exhibits in an attempt to solidify specific developer obligations (instead of having such obligations in the actual draft DA contract. Such drafting protocol was retained given the request by the developer to expedite City Council consideration of the DA.

1. The applicant shall prepare Codes, Covenants & Restrictions (CC&Rs) that establish one or more Homeowners Associations (HOAs) and provide that the HOA(s) are responsible for the operation and maintenance of all common areas and open spaces within the boundaries of the PUD and incorporating

detailed maintenance standards and provisions for maintenance of the same. **DA Section 3.4. No CCRs provided by developer to date.**

2. The final stormwater management plan shall be developed in a manner that does not negatively affect the functionality of the open spaces or railroad corridor. **Not expressly stated in the DA, rather, included in the language of Exhibit F**

3. Preliminary Plat, Sheet 5 of 7, dated 6/3/2022: Majority of the proposed accesses throughout Block 1 qualify as purely local drives. Purely local drives do not provide through access and are generally short in length and serve a relatively limited number of lots. Purely local drives shall be publicly dedicated but privately maintained right-of-way, with a minimum width and configuration meeting the International Fire Code. The access south of Lots 59-68 functions as an alley and shall meet the same conditions as the purely local drives. The primary east/west access, south of Lots 43, 46, 49, 52, 55, and 58, as well as the primary north/south access, east of Lots 40, 35, 30, and 25, do not qualify as purely local drives because they provide a looped-through access to the purely local drives and shall meet the minimum public right-of-way permitted for a Planned Unit Development of 50-feet. The proposed 2 preliminary plat reflects a right-of-way width of approximately 46' along these two primary accesses within Block 1; the construction documents and final plat shall reflect a minimum right of-way of 50-feet to provide functionality as a local street and enable necessary maintenance and snow storage. This local street shall be publicly maintained; no driveways, other than the purely local drives, may access this local street. **DA Exhibit F lists this requirement, yet no Final Plats submitted for the majority of the project to show compliance.**

4. On-street parking: parking on one side of the street shall be permitted where the pavement width is 28' or more and parking on both sides of the street shall be permitted where the pavement width is 36' or more. No parking signs shall be provided wherever these conditions are not met. **DA Exhibit F lists this requirement, yet no Final Plats submitted for the majority of the project to demonstrate compliance.**

5. Purely local drives shall be privately maintained. The final plat shall provide reference to the responsibility of maintenance and City approved CC&Rs incorporating detailed maintenance standards and provisions. **DA Exhibit F lists the requirement, yet no CCRs have been submitted.**

6. Hammerhead Turnarounds accessing townhouse lots must measure at least 60 ft in both directions from the centerline. **DA Exhibit F**

7. Due to the proximity of the residential development to the railroad tracks, exterior walls shall have a sound transmission class (STC) of not less than 50, or not less than 45 if field tested, for airborne noise. Penetrations or openings in construction assemblies shall be sealed, lined, insulated, or otherwise treated to maintain the required ratings. **DA Section 3.2.1**

8. No lots may be sold, and no building permits can be issued prior to final platting. **N/A to the DA**

9. Application for street names shall be made with Bonner County. **N/A to the DA**

10. Detailed plans for the open spaces, incorporating staff recommended changes, are provided and incorporated into the Master Development Agreement, specifically, such plans shall include: a. A children's playground including city staff approved play structures in the revised 11,000 square foot park at the corner of East Ebbett Way and Herring Avenue (increased in size from 8,000 square feet as recommended by the planning and zoning commission and indicated as a "Tot lot" on the revised open space plan dated October 21, 2022). b. An asphalt pump track, design to be approved by city parks planning staff in the 41,000 square foot open space (indicated on the revised open space plan dated October 21, 2022). c. A paved pedestrian/bicycle pathway from N. Boyer Avenue shared use pathway to the pump track at the south end of the development. d. Extension of the linear park pathway at the north end of the development to N. Boyer Avenue. e. Dog waste stations throughout the development

to be maintained by the HOA(s). **DA Sections 2.1.4, 3.3 and 3.4 establish the requirements, which further refer to Exhibits F, H, I, J, and K. No detailed plans have been submitted to date.**

11. Detailed landscape plans including the size, type, and location of plant material; automatic sprinklers; location and specifications for all built elements such as paths or benches shall be incorporated into the Master Development Agreement. **No plans submitted to date by developer.**

12. The proposed multi-family development on Lots 1-4 Block 2 shall meet the site design and building standards included in 9-4-2-3-H of the Sandpoint City Code excepting 9-4-2-3-H.6.a pertaining to building height and 9-4-2-3-H.7 pertaining to building orientation toward the street. Said revised plans and building designs shall be reviewed at the building permit site plan review phase. **N/A to the DA.**

13. The Zoning Standards Table shall be amended to incorporate requirements of Condition 12 and incorporated into the Master Development Agreement. Other City Codes in place at the time of building permit application shall apply. Modifications to the Zoning Standards Table may only be approved through an amendment to the PUD. **DA Section 2.1.1 establish the requirements, which further refers to Exhibits E, F, and G. No zoning standards table has been submitted to date.**

14. In accordance with City Code 10-3-10.1, the development shall be initiated within two (2) years of the date of approval. The infrastructure construction and recording of the final plat shall occur within two (2) years from date of approval. The building construction and final certificates of occupancy shall occur in phases and be completed within five (5) years from date of PUD approval, as further described and conditioned in the Master Development Agreement. **More than 2 years have passed and no Final Plat has been recorded (developer applied for Final Plat on 12/19/2024), no infrastructure has been accepted by the City Council, no DA has been brought to City Council for consideration, and no building permits have been issued.**

IV. City Council Options

The City Council may take one of the following actions related to PUD expiration:

Option 1: Establish that the PUD has expired, pursuant to SCC 10-3-10(M). Under this option the developer is able to pursue development under the Residential Multi-family zoning and proceed with submitting another Preliminary Plat and Final Plats. The developer would have no obligations (or rights to the zoning waivers) for the amenities identified in the PUD, and a DA would not necessarily be required.

Option 2: Establish a new expiration date for the PUD. For example, the City Council could provide an additional 6-months or another time-frame for staff to finalize amendments to the existing (2021) DA, and for the developer to perfect the remaining conditions of approval.

With this action, City Council would be maintaining the validity of the PUD for 6 months (or another time-frame). Flowing from this direction staff would be preparing an amendment to the existing (2021) DA to be brought back to City Council reflecting desired changes as established in the conditions of approval from the 11/2/2022 approvals.

In so doing, staff recommends that a DA be drafted to include the following:

- a. Clarity on the desired access to the open space amenities represented in the Final Development Plan. At the approval hearing on 11/2/2022, the developer is quoted as stating in reference to the pump track and other amenities that they would be, “quite an attraction for the entire community”. Clarity should be brought to the specific means of providing such access, such as a recorded public access easement on the amenities that would be HOA owned, maintained and publicly accessible in perpetuity. The DA includes draft language in section 3.3.4 that should be verified by City Council as to intent of accessibility because the developer has more recently asserted that there is no intention of making the amenity

publicly accessible. Further, the timing of all public amenities should be clarified to be required up front, prior to any housing occupancies.

- b. The intent of implementing a special permit (a PUD) as listed in condition of approval #14 be brought forward to provide an additional 6 months, though December 2025, to complete a Final Plat (including CCRs), obtain building permits, and commence home construction. The draft DA does not currently include such clarifying language in section 1.3.
- c. The detailed landscape plans identified in condition of approval #11 be included as an exhibit to the DA and be designed by a professional, licensed landscape architect, which to date has not occurred. The draft DA does not include a high level of specificity and City Council expectations should be clarified.
- d. Improvement plans, prepared and stamped by a licensed professional engineer, shall be submitted for review and approval by city staff before final plat of any portion of the development. Plans shall show public infrastructure for the entire PUD at full buildout, and include roadway, stormwater, water, and sewer improvements.