



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT



May 4, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment  
DLCD File Number 001-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: May 16, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Dave Perry, DLCD Regional Representative  
Dianne Snow, City of Brookings

<paa> ya/

**FORM 2**

**DLCD NOTICE OF ADOPTION**

**DEPT OF**

This form must be mailed to DLCD within 5 working days after the final decision  
per ORS 197.610, OAR Chapter 660 - Division 18

**APR 27 2006**

(See reverse side for submittal requirements)

**LAND CONSERVATION  
AND DEVELOPMENT**

Jurisdiction: City of Brookings Local File No.: LDC-1-06  
(If no number, use none)  
Date of Adoption: 04-24-06 Date Mailed: 04-25-06  
(Must be filled in) (Date mailed or sent to DLCD)  
Date the Notice of Proposed Amendment was mailed to DLCD: 01-18-06

Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment  
 Land Use Regulation Amendment  Zoning Map Amendment  
 New Land Use Regulation  Other: \_\_\_\_\_  
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡

Revisions to Section 80 of the Land Development Code,  
"Site Plan Approval"

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write same.≡ If you did not give notice for the proposed amendment, write AN/A.≡

See attached proposal with changes circled.

Plan Map Changed from : \_\_\_\_\_ to \_\_\_\_\_  
Zone Map Changed from: \_\_\_\_\_ to \_\_\_\_\_  
Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_  
Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_  
Applicable Statewide Planning Goals: All Goals  
Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 001-06  
(14943)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

Local Contact: Dianne Snow Area Code + Phone Number: (541) 469-2163

Address: 898 Elk Drive City: Brookings

Zip Code+4: 97415 Email Address: dsnow@brookings.or.us

## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Mara.Ulloa@state.or.us](mailto:Mara.Ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON

In the Matter of an Ordinance Amending )  
Ordinance 89-0-446, An Ordinance )  
Creating the Land Development Code to ) Ordinance 06-O-446.VV  
amend Section 80, Site Plan Committee )  
in its entirety. )

Sections:

- Section 1. Ordinance identified.
- Section 2. Amendment to Section 80.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 89-0-446, enacted April 10, 1989 entitled, the Land Development Code.

Section 2. Amendment to Section 80. Ordinance No. 89-O-446, Section 80 is hereby amended to read as follows:

**Sections:**

- 80.010 Purpose.
- 80.020 Site plan committee.
- 80.030 Application.
- 80.040 Improvement standards.
- 80.050 Action of site plan committee.
- 80.060 Appeal.
- 80.070 Revisions.
- 80.080 Security, and the Secured Improvement Agreement (SIA).
- 80.090 One Year Warranty of Public Improvements.

**80.010 Purpose.** The purpose of site plan approval is to establish a review process insuring that new development is in compliance with the objectives and requirements of the Land Development Code and all other applicable City ordinances.

**80.020 Site plan committee.** There is hereby created a Site Plan Committee consisting of the City Manager, Public Works Director, Planners, Building Official, Fire Chief or their designees, to carry out the duties set forth in this section. This committee shall have the authority to approve, disapprove or to approve with conditions, the site plans for all proposed new buildings or structures, or the expansion of existing structures. This committee shall also have the authority to review building permits and land use applications for completeness pursuant to the submittal requirements of the pertinent section of the Land Development Code.

**80.030 Application.**

**A. Building Permits**

Before any building permit shall be issued, a plot plan for the total parcel or development site shall be prepared and submitted to the city, together with a Permit Clearance Form, 2 full sets of construction plans, including elevations showing existing and proposed grade, and topographic details.

The plot plan for a building permit shall be drawn to scale and shall indicate the following:

1. Property lines with dimensions and a north arrow.
2. Locations of buildings and structures, existing and proposed, including dimensions, the height, , front, rear and side yard setbacks of the proposed structures.
3. Location and layout of off-street parking and loading facilities.
4. Existing and proposed driveways and adjacent roads.
5. Location of any streams, drainages or wetlands.
6. Indications of exterior lighting standards and devices, if required.
7. Location and size of existing and proposed water and sewer lines.
8. For commercial structures, the location and size of exterior signs and outdoor advertising.
9. Location of any required landscaping.
10. Any other architectural or engineering data required to permit findings that the provisions of the Land Development Code and other applicable requirements have been met.

**B. Land Use Applications**

Materials to be submitted, including site plans, for land use applications are found in specific sections:

1. Section 70, Master Plan Development
2. Section 116, Planned Unit Development
3. Section 136, Variances
4. Section 140, Conditional Use Permits,
5. Section 148, Annexation
6. Section 168, Wireless Communication Towers
7. Section 176, Land Divisions

**80.040 Improvement standards.** The site plan committee in its review of projects subject to the provisions of this section shall apply the following standards and requirements in addition to those found in the applicable zoning district, and listed in Section 172 of this code. Developments and activities that are exempt from these requirements are listed in Section 4.070.

- A. For multiple-family residential development an area equal to at least 15% percent of the site area, inclusive of required setback yards, shall be devoted to usable open space recreation areas. This area must be cleared of brush or obstructions and not used for temporary or regular parking of vehicles.
- B. An access way to a commercial or industrial off-street parking area shall be improved from the public roadway to the parking area to a minimum width of 20 feet for two-way traffic. If the access way is a one-way in or one-way out, it shall be a minimum width of 10 feet and have appropriate signage.
- C. Proposed development in any zone, except the Public Open Space Zone, subject to the provisions of Section 80, which fronts upon an unimproved street shall either be required to improve same to city standards by the installation of curb, gutter, pavement and sidewalk on the side abutting the said development, plus 12 feet of pavement beyond the center line or match existing pavement whichever the City deems appropriate. The owner may request a deferred improvement agreement for future street improvements which shall run with the land. The City Council, with recommendations from the Site Plan Committee, will determine the extent of needed off-site improvements in regard to the nature of off-site improvements in the Public Open Space Zone on a case by case basis.

D. Provide for the improvement of an existing dedicated alley way which is intended to be used for egress and ingress, or backup space of off-street parking for the development.

E. Make provision for screening the visibility of roof, wall or ground mounted mechanical equipment and devices, in addition to propane tanks in commercial and industrial zones.

**80.050 Action of the site plan committee.** Within ten (10) working days from the date of submission of an application containing required materials, the Building Official or City Planner or their designee shall present the application to the Site Plan Committee for determination. The Site Plan Committee shall have ten (10) working days to approve the application and issue the building permit or, in the case of a Land Use Application, forward it to the Planning Commission. If the application is denied or found to be incomplete, the applicant will be informed in writing. The decision of the committee shall be final unless appealed to the Planning Commission.

**80.060 Appeals.** The applicant may appeal a decision of the site plan committee to the Planning Commission in the form prescribed by the City. Such appeal shall be filed with the City Manager or his designee within fifteen (15) days of the decision of the site plan committee. The appeal shall be forwarded to the Planning Commission. The Planning Commission shall review the site plan and shall approve, approve with conditions, or disapprove the plan based upon the considerations listed in Sections 80.030, building permit requirements.

**80.070 Revisions.** Revisions made by the applicant to an approved site plan shall be resubmitted for review and approval by the Site Plan Committee. Where required site plan approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction, alteration, improvement or use in any manner except in complete compliance with the approved site plan.

**80.080 Security, and the Secured Improvement Agreement Process.** The ability to provide security in lieu of immediate installation of required public improvements is available for various development projects. The Security guarantees that the required public improvements will be completed. The Security provides the funds, as outlined in the Secured Improvement Agreement, for the City to use if the applicant fails to complete installation of the required public improvements. The standards for security protect the public from additional expenditures. In general, security is accepted exclusively on a short-term basis to allow for certain events to occur, such as securing final plat approval of a partition or subdivision, while guaranteeing the work will be completed within an identified time frame.

A. Projects eligible for Security. The City Manager or designee can require the installation of public improvements for the following:

1. Tentative Partition Plan
2. Tentative Subdivision Plan
3. Conditional Use Permit
4. Variance
5. Master Plan of Development
6. Detailed Development Plan
7. Planned Unit Developments
8. Building Permits

B. General Provisions.

1. Security is accepted for the following public improvements: final asphalt paving, street lights, street signs, and miscellaneous above ground elements that do not impact the overall integrity of the project. Public improvement costs are defined as the total value of all required improvements for a project. The applicant's engineer determines the cost of the required improvements. The City will review the applicant's engineer's estimate of the cost of the improvements and has the right to determine the true value.
2. The applicant must pay the City's actual processing costs. Actual costs will reflect and include all types of staff time and any consultant fees, including planning, engineering, geologic, archeological, public works, City administration and legal services, in accordance with the City's adopted fee schedule.
3. The signing of a Secured Improvement Agreement and the posting of a form of security identified in 80.080(C) may be accepted for public improvements identified in number 1 above.
  - (a) The applicant's engineer shall provide an itemized estimate for review by the City to establish the cost of the required public improvements. An



amount equal to 50% will be added to the cost for potential liability associated with the improvements.

(b) A Processing Fee, as established by general resolution of the City Council, is required and is not refundable.

(c) The applicant shall sign a Secured Improvement Agreement. If the applicant fails to install the required public improvements in the time frame indicated in the Secured Improvement Agreement, the City shall use the security to perform the work.

C. The form of Security shall be

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon.
2. An irrevocable standby letter of credit
3. An irrevocable security instrument acceptable to the City

D. Criteria for Security. Security may be deposited in lieu of the final installation and final acceptance of public improvements identified in Section 80.080 (B), General Provisions. The applicant shall meet all of the following criteria:

1. Has not forfeited a form of security requiring the City to complete a project within the last seven (7) years.
2. The applicant has paid all permit fees, engineering fees, and other required fees which are due and payable for the current project.
3. All other conditions of approval are complete except for those that cannot be completed until the installation of the secured improvements.

E. Issuance of building permits.

1. Building permits for the project will NOT be issued until the final plat has been recorded and received by the City. Any fire access or fire flow requirements must be in place and approved by the City Fire Chief prior to construction of any structure.
2. For those public improvements for which security has been allowed, construction of all remaining improvements shall be completed within a negotiated time frame not to exceed 12 months after the recording of the final

plat. Occupancy of homes, businesses, dwellings, etc. shall NOT be permitted until all public improvements have been installed, tested, received final acceptance by the City, a one year warranty bond is completed, conditions of approval are completed, and final inspection of the homes, businesses, dwellings, private improvements, etc. have occurred.

F. Use of the Security and Secured Improvement Agreement

1. At the time of installation of the required public improvements, the City shall authorize release, to the applicant, of any funds remaining after completion of the work. The improvements must be approved and accepted by the City. There will be no partial release of the security. The applicant must make the request for release of the security deposit in writing to the City.

If the applicant fails to install the required public improvements, the City shall use the Security to complete the work.

2. Cost above and beyond the amount stated in the SIA will be charged to the applicant.
3. The applicant shall indemnify the City, Mayor, Council Members, officers, boards, commissioners, employees, the City's engineering consultant firm, and any agents of the City from claims of any nature arising or resulting from the performance of any acts required by the City to be done in accordance with the SIA.
4. The Secured Improvement Agreement may be used to create a Local Improvement District for properties identified in the agreement.
  - (a) At the time of installation of the deferred public improvements, if the cost is greater than the amount originally deposited, plus accrued interest, the City may use the Security and Secured Improvements Agreement to create a Local Improvement District .
  - (b) The formation and function of the Local Improvement District must comply with Brookings Ordinance # 92-0-486.

**80.090 Warranty of Public Improvements.**

- A. When all public improvements have been inspected and accepted by the City, the applicant shall provide a one year warranty bond in the amount equal to 10% of the value for the total public improvements for a period of one year. On hillside

developments, with slopes greater than 15% or other hazards as identified in Section 100, the warranty bond shall be extended to 5 years, and the bond shall be 10% of the value of all public improvements. The warranty shall be in a form acceptable to the City.

B. The applicant's engineer shall provide a detailed statement of the value of the completed improvements. The City reserves the right to determine the final value.

C. The form of Warranty Bond shall be:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon.
2. An irrevocable standby letter of credit.
3. An irrevocable security instrument acceptable to the City.

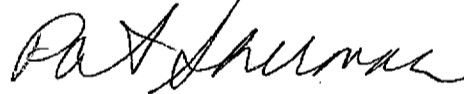
First reading: April 24, 2006

Second reading: April 24, 2006

Passage: April 24, 2006

Effective date May 24, 2006

Signed by me in authentication of its passage this \_\_\_\_ day of April, 2006.



Pat Sherman, Mayor

ATTEST:

\_\_\_\_\_  
Paul Hughes, Finance Director/Recorder

80.010

BROOKINGS DEVELOPMENT CODE

80.030.A

DRAFT March 1, 2006

*Original  
Proposed  
Version*

Section 80  
SITE PLAN APPROVAL

Sections:

- 80.010 Purpose.
- 80.020 Site plan committee.
- 80.030 Application.
- 80.040 Improvement standards.
- 80.050 Action of site plan committee.
- 80.060 Appeal.
- 80.070 Revisions.
- 80.080 Security, and the Secured Improvement Agreement (SIA).
- 80.090 One Year Warranty of Public Improvements.

*CHANGES  
CIRCLED*

**80.010 Purpose.** The purpose of site plan approval is to establish a review process insuring that new development is in compliance with the objectives and requirements of the Land Development Code and all other applicable City ordinances.

**80.020 Site plan committee.** ~~There is hereby created~~ a Site Plan Committee consisting of the City Manager, Community Development Director, Public Works Director, Planners, Building Official, Fire Chief or their designees, to carry out the duties set forth in this section. This committee shall have the authority to approve, disapprove or to approve with conditions, the site plans for all proposed new buildings or structures, or the expansion of existing structures. This committee shall also have the authority to review building permits and land use applications for completeness pursuant to the submittal requirements of the pertinent section of the Land Development Code. [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

**80.030 Application.**

A. Building Permits

Before any building permit shall be issued, a plot plan for the total parcel or development site shall be prepared and submitted to the city, together with a Permit Clearance Form, 2 full sets of construction plans, including elevations

showing existing and proposed grade, and topographic details.

The plot plan for a building permit shall be drawn to scale and shall indicate the following:

1. Property lines with dimensions and a north arrow.
2. Locations of buildings and structures, existing and proposed, including dimensions, the height, , front, rear and side yard setbacks of the proposed structures.
3. Location and layout of off-street parking and loading facilities.
4. Existing and proposed driveways and adjacent roads.
5. Location of any streams, drainages or wetlands.
6. Indications of exterior lighting standards and devices, if required.
7. Location and size of existing and proposed water and sewer lines.
8. For commercial structures, the location and size of exterior signs and outdoor advertising.
9. Location of any required landscaping.
10. Any other architectural or engineering data required to permit findings that the provisions of the Land Development Code and other applicable requirements have been met.

**B. Land Use Applications**

Materials to be submitted, including site plans, for land use applications are found in specific sections:

1. Section 70, Master Plan Development
2. Section 116, Planned Unit Development
3. Section 136, Variances
4. Section 140, Conditional Use Permits

5. Section 148, Annexation
6. Section 168, Wireless Communication Towers
7. Section 176, Land Divisions

**80.040 Improvement standards.** The site plan committee in its review of projects subject to the provisions of this section shall apply the following standards and requirements in addition to those found in the applicable zoning district, and listed in Section 172 of this code. Developments and activities that are exempt from these requirements are listed in Section 4.070.

- A. For multiple-family residential development an area equal to at least 15% percent of the site area, inclusive of required setback yards, shall be devoted to usable open space recreation areas. This area must be cleared of brush or obstructions and not used for temporary or regular parking of vehicles.
- B. An access way to a commercial or industrial off-street parking area shall be improved from the public roadway to the parking area to a minimum width of 20 feet. *LANGUAGE ADDED.*
- C. ~~Proposed development in any zone, except the Public Open Space Zone,~~ subject to the provisions of Section 80, which fronts upon an unimproved street shall either be required to improve same to city standards by the installation of curb, gutter pavement and sidewalk on the side abutting the said development, plus 12 feet of pavement beyond the center line or match existing pavement whichever the City deems appropriate. The owner may request a deferred improvement agreement for future street improvements which shall run with the land. The City Council, with recommendations from the Site Plan Committee, will determine the extent of needed off-site improvements in regard to the nature of off-site improvements in the Public Open Space Zone on a case by case basis. **[As amended by Ordinance No. 93-O-446.P, effective August 10, 1993]**
- D. Provide for the improvement of an existing dedicated alley way which is intended to be used for egress and ingress, or backup space of off-street parking for the development.
- E. Make provision for screening the visibility of roof, wall or ground mounted mechanical equipment and devices, in addition to propane tanks in commercial

and industrial zones.

**80.050 Action of the site plan committee.** Within ten (10) working days from the date of submission of an application containing required materials, the Building Official or City Planner or their designee shall present the application to the Site Plan Committee for determination. The Site Plan Committee shall have ten (10) working days to approve the application and issue the building permit or, in the case of a Land Use Application, forward it to the Planning Commission. If the application is denied or found to be incomplete, the applicant will be informed in writing. The decision of the committee shall be final unless appealed to the Planning Commission.

**80.060 Appeals.** The applicant may appeal a decision of the site plan committee to the Planning Commission in the form prescribed by the City. Such appeal shall be filed with the City Manager or his designee within five (5) days of the decision of the site plan committee. The appeal shall be forwarded to the Planning Commission. The Planning Commission shall review the site plan and shall approve, approve with conditions, or disapprove the plan based upon the considerations listed in Sections 80.030, building permit requirements.

**80.070 Revisions.** Revisions made by the applicant to an approved site plan shall be resubmitted for review and approval by the Site Plan Committee. Where required site plan approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction, alteration, improvement or use in any manner except in complete compliance with the approved site plan.

**80.080 Security, and the Secured Improvement Agreement Process.** The ability to provide security in lieu of immediate installation of required public improvements is available for various development projects. The Security guarantees that the required public improvements will be completed. The Security provides the funds, as outlined in the Secured Improvement Agreement, for the City to use if the applicant fails to complete installation of the required public improvements. The standards for security protect the public from additional expenditures. In general, security is accepted exclusively on a short-term basis to allow for certain events to occur, such as securing final plat approval of a partition or subdivision, while guaranteeing the work will be completed within an identified time frame.

A. Projects eligible for Security. The City Manager or designee can require the installation of public improvements for the following:

1. Tentative Partition Plan
2. Tentative Subdivision Plan
3. Conditional Use Permit
4. Variance
5. Master Plan of Development
6. Detailed Development Plan
7. Planned Unit Developments
8. Building Permits

B. General Provisions.

1. Security is accepted for the following public improvements: final paving, street lights, street signs, and miscellaneous above ground elements that do not impact the overall integrity of the project and are less than 10% of the public improvement costs. Public improvement costs are defined as the total value of all required improvements for a project. The applicant's engineer determines the cost of the required improvements. The City will review the applicant's engineer's estimate of the cost of the improvements and has the right to determine the true value.
2. Any cost for peer review of engineered plans by the City shall be paid for by the applicant.
3. The signing of a Secured Improvement Agreement and the posting of a form of security identified in 80.080(C) may be accepted for public improvements identified in number 1 above.
  - (a) The applicant's engineer shall provide an itemized estimate for review by the City to establish the cost of the required public improvements. An amount equal to 50% will be added to the cost for potential liability associated with the improvements.



(b) A Processing Fee, as established by general resolution of the City Council, is required and is not refundable.

(c) The applicant shall sign a Secured Improvement Agreement. If the applicant fails to install the required public improvements in the time frame indicated in the Secured Improvement Agreement, the City shall use the security to perform the work.

C. The form of Security shall be

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon.
2. An irrevocable standby letter of credit
3. An irrevocable security instrument acceptable to the City

D. Criteria for Security. Security may be deposited in lieu of the final installation and final acceptance of public improvements identified in Section 80.080 (B), General Provisions. The applicant shall meet all of the following criteria:

1. Has not forfeited a form of security requiring the City to complete a project within the last five years.
2. The applicant has paid all permit fees, engineering fees, and other required fees which are due and payable for the current project.
3. All other conditions of approval are complete except for those that cannot be completed until the installation of the secured improvements.

E. Issuance of building permits.

1. Building permits for the project will NOT be issued until the final plat has been recorded and received by the City. Any fire access or fire flow requirements must be in place and approved by the City Fire Chief prior to construction of any structure.
2. For those public improvements for which security has been allowed, construction of all remaining improvements shall be completed within a negotiated time frame not to exceed 12 months after the recording of the

final plat. Occupancy of homes, businesses, dwellings, etc. shall NOT be permitted until all public improvements have been installed, tested, ~~and~~ received final acceptance by the City, a one year warranty bond is completed, conditions of approval are completed, and final inspection of the homes, businesses, dwellings, private improvements, etc. have occurred.

F. Use of the Security and Secured Improvement Agreement

1. At the time of installation of the required public improvements, the City shall authorize release, to the applicant, of any funds remaining after completion of the work. The improvements must be approved and accepted by the City. There will be no partial release of the security. The applicant must make the request for release of the security deposit in writing to the City.

If the applicant fails to install the required public improvements, the City shall use the Security to complete the work.

2. Cost above and beyond the amount stated in the SIA will be charged to the applicant.
3. The applicant shall indemnify the City, Mayor, Council Members, officers, boards, commissioners, employees, the City's engineering consultant firm, and any agents of the City from claims of any nature arising or resulting from the performance of any acts required by the City to be done in accordance with the SIA.
4. The Secured Improvement Agreement may be used to create a Local Improvement District for properties identified in the agreement.
  - (a) At the time of installation of the deferred public improvements, if the cost is greater than the amount originally deposited, plus accrued interest, the City may use the Security and Secured Improvements Agreement to create a Local Improvement District .
  - (b) The formation and function of the Local Improvement District must comply with Brookings Ordinance # 92-0-486.

**80.090 Warranty of Public Improvements.**

- A. When all public improvements have been inspected and accepted by the City, the applicant shall provide a one year warranty bond in the amount equal to 10% of the value for the total public improvements for a period of one year. On hillside developments, with slopes greater than 15% or other hazards as identified in Section 100, the warranty bond shall be extended to 5 years, and the bond shall be for a minimum of 10% of the value of all public improvements. The warranty shall be in a form acceptable to the City.
- B. The applicant's engineer shall provide a detailed statement of the value of the completed improvements. The City reserves the right to determine the final value.
- C. The form of Warranty Bond shall be:
1. A surety bond executed by a surety company authorized to transact business in the State of Oregon.
  2. An irrevocable standby letter of credit.
  3. An irrevocable security instrument acceptable to the City.