

## ARTICLE 7. PLANNED DEVELOPMENT DISTRICTS

### PLANNED DEVELOPMENT DISTRICTS

#### 7.1 Planned Development Districts, Generally

Planned Development (PD) districts may be established for specialized purposes where tracts suitable in location, area and character for the use and structures proposed are to be planned and developed on a unified basis. Suitability of tracts for the development proposed shall be determined primarily by reference to the Comprehensive Plan, but due consideration shall be given to the existing and prospective character of surrounding development.

Planned Development districts may be used in all areas covered by the Joint Planning Agreement among Orange County, the Towns of Carrboro and Chapel Hill and the Orange Water and Sewer Authority. To this end suitable incentives, in the form of bonuses, over and above the intensity of permitted development under traditional lot-by-lot development, shall be provided.

The Planned Development technique may be used in the University Lake, Cane Creek and part of the Upper Eno Watershed areas, to protect these important water supply reservoir areas from degradation.

The Planned Development technique may be used in the rural portions of Orange County where the size or complexity, or both, of the proposed development warrant its use.

The Planned Development technique offers distinct advantages to the public, while affording private property owners greater flexibility in the development of their land, the opportunity for the application of new and ingenious development techniques and more prudent use of time, money and effort. The public benefits include more efficient and effective use of land, more efficient use of energy, the reduction of the costs of continuing maintenance responsibilities and a higher average level of amenity in all types of development.

PD districts shall be so related to the general development pattern and the objectives of the Comprehensive Plan as to provide for comfort and convenience of residents, facilitate protection of the character of surrounding neighborhoods, and reduce automotive traffic congestion by a reasonably close relationship (either in distance or in time) between origins and destinations of persons living, working or visiting in such developments, or by availability of mass transit. Housing, commercial and service facilities and principal places of employment shall be so related by physical proximity, by major street networks, or by mass transit as to promote these objectives.

Within PD districts, regulations adapted to such unified planning and development are intended to accomplish the purposes of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are intended to control unscheduled development on individual lots, and to promote economical and efficient land use, and improved level of amenities, appropriate and harmonious variety, creative design and a better environment.

## **7.2**

Amended  
11/5/03

### **Planned Development Defined**

For purposes of those regulations, a planned development is:

- a) Land under unified control, to be planned and developed as a whole;
- b) A single development operations or a definitely programmed series of development operations, including all lands and buildings;
- c) Principal and accessory structures and uses substantially related to the character and purposes of the district;
- d) According to comprehensive and detailed plans which include not only streets, utilities, lots or building sites and the like, but also site plans and floor plans for all buildings as intended to be located, constructed, used and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings; and
- e) With a program for provision, operation and maintenance of such areas, facilities and improvements as will be for common use by some or all of the occupants of the district, but will not be provided, operated or maintained at general public expense.
- f) A Major Subdivision, Planned Development as described in Article 4.1.

**\*7.2.1**

**Establishment of the Planned Development Districts**

\*Amended

11/2/81

11/20/84

10/5/87

3/1/94

Planned Development districts that correspond to the following districts authorized in Article 4 are hereby created:

R-13 -	PD-H -	R-13
R-8 -	PD-H -	R-8
R-5 -	PD-H -	R-5
R-4 -	PD-H -	R-4
R-2 -	PD-H -	R-2
R-1 -	PD-H -	R-1
RB -	PD-H -	RB
LC-1 -	PD-C -	LC-1
NC-2 -	PD-C -	NC-2
CC-3 -	PD-C -	CC-3
GC-4 -	PD-C -	GC-4
OI-1 -	PD -	OI-1
I-1 -	PD -	I-1
I-2 -	PD -	I-2
I-3 -	PD -	I-3
ED -	PD -	ED
PW-I -	PD -	PW-I
	PD - MU	
	PD - R	
	PD - MHP	

**\*7.2.2**                    **Property owner must apply for Planned Development District**

\*Amended  
11/2/81  
district.

The property owner must voluntarily apply for the Planned Development

**\*7.2.3**                    **Allowed Uses Must Be Shown On The Plan**

\*Amended  
11/2/81

If the petitioner elects to apply for a Planned Development District the petition must specify the actual use(s) intended for the property specified in the petition and the intended use(s) must be permitted in the corresponding general use district. In the petition for a Planned Development District, the County Commissioners are to approve, approve with conditions or disapprove the petition on the basis of the proposed site plan and the specific proposed use.

Any change in the use shown on the plan will be treated as an amendment to the Planned Development, as set forth in Article 7.8.

**\*7.2.4**                    **Imposed Conditions**

\*Amended  
11/2/81

The Board of County Commissioners may impose such reasonable conditions upon approval of a Special Use Permit for a Planned Development District as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done and equitable treatment provided.

**\*7.2.5**                    **Special Use Required For Each Planned Development**

\*Amended  
11/2/81

Within the Planned Development District only those uses authorized by Article 4 as permitted in the zoning district with which the PD corresponds shall be permitted, and all other requirements of the corresponding district shall be met. In addition, within a PD no use shall be permitted except pursuant to a Special Use Permit authorized by the County Commissioners which shall specify the use or uses authorized as required in Article 8.8.23.

If the petition is approved, the County Commissioners shall issue a Special Use Permit authorizing the requested use with such reasonable conditions as the governing body determine to be desirable in promoting public health, safety and welfare.

The authorization of a Special Use Permit in any Planned Development District for any use which is permitted only as a "Class B" special use in the zoning district which corresponds to the Planned Development District shall preclude any requirement for Board of Adjustment approval but shall be approved by the Board of County Commissioners.

**\*7.2.6**                    **Standards For Evaluation**

\*Amended  
11/2/81

The General and Specific Standards for the issuance of a Planned Development Permit shall include those for a Special Use Permit as set forth in Article 8 and other requirements and standards as set forth in Article 7.

**\*7.2.7**                    **Changes In Conditions Or Use For Planned Development Permit**

\*Amended  
11/2/81

Any violation of a term or indication of a Planned Development Permit shall be treated the same as any other such violation. In addition the Planned Development Permit shall become null and of no effect, and the property shall be rezoned at the next scheduled hearing to its previous zoning district.

**\*7.2.8**                    **Time Limit on Start of Construction of Planned Development**

\*Amended  
11/2/81  
8/4/86  
10/3/88

Construction of the planned development must start and proceed at a reasonable rate within twelve (12) months of the approval of the permit. If no construction has started within the stated time frame the permit becomes null and of no effect. The owner can request only one (1) six-month extension from the Board of County Commissioners upon the favorable recommendation of the Planning Board if the request is received before the permit expires.

No changes shall be made to the conditions of approval. Approval of a time extension shall be based on evidence presented by the applicant showing that permits have been pursued in a timely manner, and that delays have resulted from factors beyond the control of the developer.

**7.3**                        **Relation of PD Regulations to General Zoning, Subdivision or Other Regulations; Modifications on Equal Satisfaction of Public Purposes**

The planned development regulations which follow shall apply generally to the initiation and regulation of all Planned Development districts. Where there are conflicts between the special PD regulations herein and general zoning, subdivision, or other regulations or requirements, these PD regulations shall apply in PD districts, unless the Board of County Commissioners find, in the particular case, that provisions herein do not serve public purposes to a degree at least equivalent to such general zoning, subdivision or other regulations or requirements.

Where actions, designs or solutions proposed by the applicant are not literally in accord with applicable PD or general regulations, but the Board of County

Commissioners make a finding, in the particular case, that public purposes are satisfied, to an equivalent or greater degree, the Board of County Commissioners may make specific modification of the regulations in the particular case, provided that where floor area and similar ratios, as maximum permitted amounts of development have been established by these regulations, the Board of County Commissioners shall not act in a particular case to modify such ratios or maximums.

Except as indicated above, and notwithstanding procedures and requirements generally in effect, the procedures and requirements set forth herein and in the guides and standards adopted as part of the regulations for particular classes of PD districts shall apply in PD districts, and to issuance of all required permits therein.

**7.4 PD Districts -- Where and How Permitted**

Planned development districts may hereafter be established by amendment to the official Zoning Atlas, approval of a Special Use Permit, and related amendatory action, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed on a unified basis, according to the requirements and procedures set forth herein.

PD districts shall be appropriately located with respect to intended functions, with respect to the pattern and timing of existing or proposed development in the Comprehensive Plan, and with respect to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed. All requirements specified in Article 20, Amendments, shall be met, as well as the following specific requirements.

**7.4.1 Relation to Major Transportation Facilities**

PD districts shall be so located with respect to Interstate highways, arterial and collector streets or mass transit facilities, and shall be so designed as to provide direct access to such districts without creating traffic along minor streets in residential neighborhoods outside the district.

**7.4.2 Relation to Public Utilities, Facilities and Services**

PD districts shall be so located in relation to sanitary sewers, waterlines, storm and surface drainage systems and other utility systems and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale or timing in a manner resulting in higher net public cost or earlier incursion of public cost than would development in forms generally permitted under current zoning and development policies for the area.

PD districts shall be so located with respect to necessary public services and facilities (as for example, fire, police, rescue services, schools, and parks, in the case of PD-H Planned Development Housing districts) as to have access to such facilities in the same degree as would development permitted under existing zoning and shall be so located, designed and scaled that access to

public services is equivalent to, and net cost for such services for development as permitted under existing development controls.

However, if applicants will (a) provide private facilities, utilities and services approved by appropriate public agencies as substituting on an equivalent basis, and assure their satisfactory continuing operation, permanently or until similar public utilities, facilities or services are available and used, or (b) make provisions acceptable to the County for off-setting any added net public cost or early commitment of public funds made necessary by such development, location of the PD districts may be approved.

In computing net public costs, differences in anticipated public installation, operation and maintenance costs and differences in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicants. Determinations shall be made by the County or by experts acceptable to the County.

#### **7.4.3 Physical Character of the Site: Relation to Surrounding Property**

The site shall be suitable for development in the manner proposed without hazards to persons or property, on or off the tract, free from the probability of flooding, erosion, subsidence or slipping of the soil or other dangers. Condition of soil, ground water level, drainage and topography shall all be appropriate to both the kind and pattern of use intended.

If appropriate to the form of planned development, lands to be included in PD districts may be divided by streets, alleys, rights-of-way or easements, but shall be so located, dimensioned and arranged as to permit unified planning and development and to meet all requirements in connection therewith as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.

#### **7.4.4 Reduction Or Increase In Minimum Gross Land Area Generally Required**

In connection with particular PD rezoning proposals the Planning Board may recommend and Board of County Commissioners may approve as part of the amendment action:

- a) Lesser areas than generally required, upon findings in the particular case, that special circumstances require such reductions, and the other requirements can be met in such lesser area, provided that no such reduction shall amount to more than ten percent of the area generally required; or
- b) Greater areas than generally required, upon findings in the particular case, that the plan of development as proposed, or the character of the property involved, as it exists or as it may reasonably be expected to develop, require such increases to meet the requirements and intent of PD zoning or to provide necessary special protection to existing natural or man-made artifacts or resources.

**7.4.5 Additions to PD Districts Not Subject To Minimum Area Requirements**

Where planned development additions are proposed to existing PD districts, and where the land and proposed plan of development is appropriately related to the existing PD district and provides necessary safeguards in relation to the surrounding area, PD amendments allowing such additions may be made without regard to the minimum gross land area requirements set forth herein. Such additions may be of the same classification as the PD district being added to, or may be of another classification, if the Planning Board recommends and Board of County Commissioners approves the other classification and plans proposed therefore, as being complementary to the original PD district.

**7.5 Procedures on PD Amendments**

**7.5.1 Applications: Materials To Be Submitted**

Applications for PD amendments shall be submitted as for other amendments. Material submitted with the application or on subsequent request by the Zoning Officer shall include, in addition to the basic material required by subsection 20.3.2, all plans, maps, studies and reports which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

Such applications shall include a report identifying all property owners within the area of the proposed district and giving evidence of unified control of its entire area. The report shall state agreement of all present property owners and/or their prospective successors in title:

- a) To proceed with the proposed development according to the regulations in effect when the map amendment creating the PD district is passed, with such modifications as are set by the Board of County Commissioners in the course of such action; and
- b) To provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the Board of County Commissioners for completion of such development according to approved plans and for continuing operation and maintenance of such areas, facilities and services as are not to be provided, operated or maintained at general public expense; and such dedications, contributions, or guarantees as are required for provision of needed public facilities and services; and
- c) To bind future successors in title to any commitments made under (a) and (b) above.

In addition to, or as part of, the report described above, applicants shall submit a preliminary development concept plan and proposals in accord with (a) above which shall show:

- 1. The general arrangement of land uses within the proposed districts.
- 2. The general location and function of the vehicular and pedestrian circulation system.

3. The general solutions to the provision of utilities.
4. The general arrangement of common facilities such as open space, recreational installations, improvements, etc.
5. A general description of the method of financing the installation and operation of the common facilities.
6. A schedule of construction of all elements of the proposal.

#### **7.5.2 Preliminary Review of Application as Submitted**

On receipt of the application and preliminary concept plan and detailed proposals as indicated previously, the Zoning Officer shall cause a study to be made by qualified representatives of the County and such other agencies or officials as appear appropriate in the circumstances of the case to determine conformity with the Comprehensive Plan, and to zoning, and subdivision regulations, soil erosion and sedimentation regulations, as well as the specific regulations and standards related to specific classes of PD districts contained in this article, applicable in the case.

#### **7.5.3 Preliminary Conferences With Applicant**

Following such study, unless complete conformity is found, the applicant shall be notified in writing of discrepancies, and of the willingness of the Zoning Officer to confer for the purpose of assisting in bringing the material submitted, as nearly as possible, into conformity with requirements and/or to define specifically the modification(s) of regulations or of the Comprehensive Plan which seem justified in view of equivalent service of public purposes by the proposal.

If the applicant does not desire to participate in such conferences, the Zoning Officer shall base the report to the Planning Board and Board of County Commissioners on the application as received.

If the applicant joins in such conferences, changes may be made in the original proposal, further conferences may be held, and additional material may be requested to guide in determinations.

If the applicant joins in such conferences, the normal thirty-day period, specified for Planning Board study of amendments, shall be waived by the applicant, so that sufficient time may be available for the conferences.

In the course of such preliminary conferences, recommendations for changes shall be recorded in writing along with the reasons therefore, and shall become part of the record in the case. Applicants shall indicate, in writing, their disagreement and the reasons therefore. Such response by applicants shall also be included in the record.

#### **7.5.4 Zoning Officer's Recommendations**

At such time as further conferences appear unnecessary, or at any time on request of the applicant, the Zoning Officer shall prepare a written report to the Planning Board and Board of County Commissioners, containing the following findings:

- a) As to the suitability of the proposals for the general type of PD category, the physical characteristics of the land, and relation of the proposed development to surrounding areas and existing and probable future development;
- b) As to relation to major roads and mass transit facilities, utilities and other facilities and services;
- c) As to the adequacy of evidence on unified control and the suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed;
- d) As to the suitability of plans proposed or the desirability of amendments;
- e) As to the adherence to PD or general regulations or as to desirable specific modifications in PD or general regulations as applied to the particular case, based on determination that such modifications are necessary or justified in the particular case by demonstration that the public purposes of PD or other regulations would be met to at least an equivalent degree by such modifications.

Based on such findings, the Zoning Officer shall recommend approval of the PD amendment proposed, approval conditioned on stipulated modifications or disapproval, with recorded reasons therefore.

#### **7.5.5 Actions by Planning Board; Board of County Commissioners**

Actions by the Planning Board and Board of County Commissioners shall be as provided for amendments generally (see Article 20). The Board of County Commissioners may grant the application in accord with PD and other applicable regulations as provided in Section 7.5 or may approve the application with conditions attached, or may deny the application.

#### **7.5.6 Development to be in Accord with Approved Concept Plan and Related Regulations**

If the amendment is approved, the Board of County Commissioners shall, in its amending action, approve the development concept plan or indicate required modifications in such approved plan, which required modifications, if any, shall be binding in determinations concerning final development plans.

If the amendment is approved, the development shall be required to be in accord with approved concept plans, meet the requirements on these and other regulations, as supplemented or modified by the Board of County Commissioners in the particular case, as part of the amending action. The development shall also conform to any time limitations established by the

Board of County Commissioners on beginning and completion of the development as a whole, or in specified stages.

Before development may proceed, agreements, contracts, deed restriction, sureties and other instruments involved shall be in a form approved by appropriate officers or agencies.

The Zoning Officer shall notify the Board of County Commissioners when such approvals have been obtained for the proposed development as a whole or for any stage or stages of development as contained in the approval of the amendment.

## **7.6 Zoning Administrator's Action on Approval of Final Plans**

After a PD district has been established, no building permit shall be issued therein, unless and until the Zoning Officer has approved final plans and reports for the development as a whole or stages or portions thereof deemed satisfactory in relation to the total development.

The form and content of such final plans and reports shall be as prescribed in the land development ordinance or other regulations, generally or for particular PD districts, and in the rules of the County and other affected agencies.

Approval of final plans and reports shall be based on compliance with regulations applying at the time the land was zoned to PD status, including such specific modifications as were made by the Board of County Commissioners in its amending action.

- \* The Orange County Manager shall certify that the conditions imposed by the Board of County Commissioners have been met.

Amended  
7/6/82

Upon approval of final plans and reports, building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular PD district shall be observed. Except as provided below, final plans and reports approval shall be binding on the applicants and any successor in title, so long as PD zoning applied to the land.

**7.7 Approval of Detailed Plan, etc. Is An Administrative Action**

Approval of detailed plans and related material is an administrative action. No public notice or hearing is required in connection with approval proceedings of final plans or changes in approved plans, but the Zoning Officer may hold meetings or cause such meetings to be held with such notice as is deemed appropriate in connection with such actions.

**7.8 Changes in Approved Final Plans**

Changes in approved final plans, specifications and reports may be permitted by the Zoning Officer on application by the original applicant or successor in interest, but only upon making a finding that such changes are:

- a) In accord with all applicable regulations in effect at the time of the amendment creating the PD district, as modified in the amending action; or
- b) In accord with all applicable regulations currently in effect, without modification; or
- c) In accord with the approved development concept plan, including any required modifications.

Changes other than as indicated above shall be made only by a new PD or other amendment.

**7.9 Expiration of Time Limits on PD Amendments**

If actions required in any amendment establishing a PD district are not taken within the time limit set, the Zoning Officer shall review the circumstances and recommend to the Planning Board and Board of County Commissioners:

- a) That PD zoning for the entire area be continued with revised time limits; or
- b) That PD zoning be continued for part of the area, with or without revised time limits, and the remainder rezoned to an appropriate category; or
- c) That the entire district be rezoned from PD to an appropriate category.

Such recommendation shall include proposals for appropriate action in respect to any legal instruments such as contracts, covenants, easements, etc. relating to the PD district.

**\*7.10**

Amended

2/7/83

**Restrictions on Permitted Uses**

The principal use or uses in a planned development shall be as allowed for the corresponding zoning district. The principal use and any proposed accessory uses for a particular planned development shall be stated in the application and shown on the site plan. After the planned development has been approved, changes in any principal use or accessory use shall constitute a change in the planned development and require approval by the Board of County Commissioners.

**7.11 - 7.13 RESERVED**