

## CHAPTER 5

# (PD) PLANNED DEVELOPMENT

### SECTION 5.000 Purpose

The purposes of a Planned Development (PD) are to provide a means of creating harmonious planned environments through the application of flexible and diversified land development standards; to encourage the application of new development techniques and technology which will result in superior living or development arrangements; to promote the efficient use of land to facilitate more economic provision of housing, circulation systems, utilities and their maintenance; to promote energy conservation and use of renewable energy resources; to preserve to the greatest extent possible significant landscape features and to utilize such features in a harmonious fashion; and to provide for more usable and suitably located open space and recreation facilities than would otherwise be provided under conventional land development procedures.

### SECTION 5.050 Definitions

The following definitions apply only to this chapter.

**HOMEOWNERS' ASSOCIATION:** A nonprofit corporation, membership in which is mandatory for owners of PD residences and owners of other related PD properties (i.e. commercial uses), and which is responsible for maintaining common open space and private streets.

**LANDSCAPE FEATURES:** Natural features of the PD site, including waterways, wetlands, rock outcroppings, forest areas and significant wildlife habitat areas.

**OPEN SPACE:** Land not covered by buildings or structures, except minor recreational structures. Open space does not include streets, driveways, parking lots, or loading areas. Landscaped roof areas devoted to recreational or leisure time activities, freely accessible to residents, may be counted as open space at a value of 50% of actual roof area devoted to these uses.

Common Open Space: Open space designed primarily for the leisure and recreational use of all PD residents, and owned and maintained in common through a homeowners' association.

Private Open Space: Open space located immediately adjacent to an individual dwelling unit, owned and maintained by the owner of the dwelling unit, and reserved exclusively for the use of the residents of the dwelling unit.

### SECTION 5.100 Process for Approval of a Planned Development

1. A Planned Development may be allowed in the following urban zones: RS, R-1, R-2, R-3.

2. Minimum Site Size: The PD site must be of such a size that at least four (4) dwelling units would be permitted by the underlying zone.
3. In the case of a conflict between a provision of the underlying zone and that of this chapter, the provision of this chapter shall apply.
4. The applicant shall make application as provided in §2.060.1 and submit to the Planning Director a Preliminary Site Plan designed to implement the requirements of this chapter.
5. The Planning Director may approve, subject to the provisions of §2.060.1, the PD Preliminary Site Plan. The Director may approve, subject to the provisions of §2.060.2 and the requirements of this chapter, the PD Final Site Plan.
6. All development subject to this chapter requires approval of a PD Preliminary Site Plan and Final Site Plan.

### **SECTION 5.150 Permitted Uses Within a Planned Development**

The following uses are permitted subject to the general standards of this chapter.

#### **1. Residential Uses**

- a. Single-family dwellings or duplexes, and accessory buildings used as garages, storerooms, woodsheds, hobby shops, laundries, playhouses, or similar and related uses; provided, that there shall not be more than two buildings allowed as accessory to any single-family dwelling or duplex and unattached structures shall be located on the rear half of the lot.
- b. Multi-family dwellings, including townhouses, row houses, apartments and condominiums.

#### **2. Commercial Uses**

Retail commercial uses shall be permitted if the Approving Authority determines that they are designed to serve primarily the residents of the PD and their guests. The Approving Authority may require that the applicant submit a market analysis demonstrating that the amount of land proposed for commercial use is needed for, and can be supported by, the residents of the PD and their guests.

#### **3. Other Uses**

If designed to serve primarily the residents of a PD and their guests, the following uses are permitted. If designed to serve residents of adjacent areas

as well, the following uses may be permitted by the Approving Authority if it finds that such use is consistent with the purposes of §5.000 of this chapter and with the underlying zone.

- a. Public and semipublic buildings, including schools, churches, libraries, community centers, fire stations, pump stations and substations.
- b. Park, playground or golf course.
- c. Privately operated kindergartens or day nurseries.
- d. Home occupations.

### **SECTION 5.200 PD Preliminary Site Plan Approval**

Approval of a PD preliminary site plan is an Administrative Action subject to the provisions of §2.060.1 of this Ordinance.

1. An application for PD preliminary site plan approval shall be initiated as provided in Chapter 2 of this Ordinance. If the site is to be divided, then the application shall also address either §4.150 or §4.250 of this Ordinance. In the case of a conflict between a provision of Chapter 4 and that of Chapter 5, the provision in Chapter 5 of this Ordinance shall apply.
2. As part of the application process, the applicant shall demonstrate that two or more of the following apply:
  - a. The subject property contains significant landscape features or open space whose preservation requires planned development rather than conventional lot-by-lot development;
  - b. Planned development of the subject property will promote increased energy conservation or use of renewable energy resources;
  - c. The subject property contains natural hazards, the avoidance of which requires planned development of the property; or
  - d. Planned development of the subject property will produce more efficient use of the land and provision of services than conventional lot-by-lot development.
3. The PD preliminary site plan shall consist of the following:
  - a. Written Documents

- (1) A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.
- (2) A development schedule indicating the approximate date when construction of the PD or phases of the PD can be expected to begin and be completed.
- (3) A declaration of covenants and restrictions, pursuant to Section 5.250.4, that will govern the Homeowners' Association if the property is to be divided and held under multiple ownerships.
- (4) Quantitative data for the following: total number and type of dwelling units to be constructed; residential acreage; parcel sizes; proposed lot coverage of buildings and structures; description of open space; amounts of private and common open space; total area and types of nonresidential construction; types of recreational facilities and structures to be developed; and, economic feasibility studies or a market analysis if needed to support the PD proposal.

b. Site Plan and Supporting Maps

A detailed site plan, prepared by a licensed engineer, architect or landscape architect, and any maps necessary to show the major components of the proposed PD, shall contain the following minimum information:

- (1) The existing site conditions (shown at 5-foot contour intervals) including water courses, floodplain and other areas subject to natural hazards, significant landscape features, and forest cover.
- (2) Proposed lot lines and layout design.
- (3) The location of all existing and proposed buildings, structures, and other improvements (specifying types of dwelling units, nonresidential structures, and commercial facilities).
- (4) The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces or recreational areas, school sites, and similar public and semipublic uses.
- (5) The location of recreational structures and facilities.

- (6) The proposed internal traffic circulation system including off-street parking areas, service areas, loading areas, and points of access to public rights-of-way. Notations of proposed ownership, public or private, should be included where appropriate.
  - (7) The proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatments of points of conflict.
  - (8) The existing and proposed systems for providing sewage disposal, water, electricity, gas, fire protection and telephone services.
  - (9) A general schematic landscape plan indicating the technique and materials to be used for private and common open spaces.
  - (10) A preliminary subdivision or partition plan addressing §4.150 or §4.250 (as appropriate) if the land is to be divided.
  - (11) The proposed treatment of the perimeter of the PD, including materials and techniques to be used, such as vegetative screens, fences, and walls.
4. The Approving Authority shall decide on the PD preliminary site plan application as provided in Chapter 2 of this ordinance; and shall approve the preliminary site plan if it finds:
- a. The preliminary site plan meets the development standards of §5.250 of this chapter.
  - b. If the preliminary site plan provides for phased development, pursuant to §5.300 of this chapter, that each phase meets the standard of §5.300.3 and that the applicant has the capability to obtain final development plan approval in the time limits imposed.
  - c. The Approving Authority may impose conditions or modifications on the preliminary site plan approval necessary to meet the requirements of §5.250 or to further the purposes of §5.000.

#### **SECTION 5.250 Development Standards for the PD Preliminary Site Plan**

A PD preliminary site plan must meet the development standards in this Section.

## 1. Residential Density

### a. Basic Allowable Density

Unless an increase in density is allowed by the Approving Authority as provided in subsection b. of this section, the number of dwelling units shall not exceed the number that would be allowed on the total acreage of the PD (excluding streets) if dwelling units of the same type were built at the minimum lot sizes specified by the underlying zone.

### b. Density Increases

The Approving Authority may permit an increase of up to 25 percent in the allowable density if the proposed PD is to be served by community water supply and sanitary sewer systems, and the Approving Authority finds that such increase in density contributes to the purposes of §5.000, by providing one or more of the following:

- (1) Additional common open space, over that required by §5.250.4 --- (up to 5% increase).
- (2) Recreational facilities and structures beyond that required by §5.250.3 --- (up to 5% increase).
- (3) Preservation of significant landscape features of the site, or avoidance of areas with natural hazard site limitations, beyond what is required by §5.250.5 --- (up to 5% increase).
- (4) Energy conservation or use of renewable energy resources --- (up to 5% increase).
- (5) Location of housing convenient to transportation facilities, commercial services, employment opportunities, and public facilities and services --- (up to 5% increase).

## 2. Building Spacing

- a. The preliminary site plan shall provide for reasonable light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers and landscaping shall be used, as appropriate for the protection and aesthetic enhancement of the property and the privacy of its occupants, the screening of objectionable views, and the reduction of noise.

- b. If the Approving Authority determines that the preliminary site plan meets the standards of subsection a. of this section, it may waive the lot area, lot width, lot coverage, setback and height requirements of the underlying zone.
- c. If the Approving Authority finds it necessary to meet the perimeter design standards of §5.250.7, it may require a special setback from all or a portion of the perimeter of the PD.

### **3. Recreational Facilities**

- a. The preliminary site plan shall provide for recreational facilities and structures in an amount appropriate to serve PD residents and their guests. In areas subject to the PD Overlay, at least one recreational facility or structure shall be provided for each 10 dwelling units, or portion thereof, until a total of five (5) such facilities or structures are provided, at which point the density bonus shall apply. Such facilities and structures may include pedestrian and bicycle trails; picnic facilities; covered pavilion; outdoor sports facilities such as tennis courts; swimming pool; improved access to ponds, lakes or rivers; indoor recreation facility for games, exercise and group gatherings; and other similar facilities and structures.

### **4. Open Space**

- a. At least 50 percent of the acreage of the PD (excluding streets) must be open space retained for use by owners and residents of the development (total open space). At least 25 percent of the total open space shall be private and at least 50 percent of the total open space shall be common. Not more than ½ of the common open space may be areas covered with water. Recreational facilities not part of a residential structure shall be considered open space.
- b. Unless the Approving Authority requires otherwise to meet the Environmental Design Standards of §5.250.5, common open space shall be distributed equitably throughout the PD in relation to the dwelling units of the residents they are intended to serve.
- c. Open spaces shall be suitably improved to enhance their use by PD residents and their guests. Open spaces containing significant landscape features may be left unimproved or may be improved to assure protection of the features, subject to requirements imposed by the Approving Authority pursuant to §5.250.5.
- d. The development schedule required by §5.200.3.a.(2) shall provide for coordination of the improvement of open spaces with the construction of other proposed site improvements.

- e. The Approving Authority shall require that the applicant assure the permanence of the common open space required in this section by conveying the open space to a Homeowners' Association or other legal entity, subject to covenants running with the land which restrict the common open space to the uses specified in the final site plan, and which provide for the maintenance and enhancement of the common open space in a manner which assures its continuing use. The conveyance instrument must include provisions that guarantee:
- (1) the continuation of such land in open space use;
  - (2) the continuity of property maintenance including the necessary financial arrangements for such maintenance; and
  - (3) that the legal entity formed for the joint ownership and maintenance of the open space will not be dissolved nor will it dispose of any common open space, by sale or otherwise, except to another legal entity which has been conceived and organized for the purpose of maintaining the open space in common.
- f. The declaration of covenants and restrictions required by §5.200.3.a.(3) shall include the following:
- (1) The Homeowners' Association must be set up before the homes are sold. Prior to such sale, the property owner assumes the responsibility of that share attributable to each unsold home defined in the Homeowners' Association.
  - (2) Membership must be mandatory for each home buyer and any successive buyer.
  - (3) The open space restrictions must be permanent, not just for a period of years.
  - (4) The method of assessing property owners for liability insurance and local taxes, and the responsibility for maintenance of recreational facilities and structures.
  - (5) Residence owners must pay their pro rated share of the cost. The assessment levied by the Association can become a lien on their property.
  - (6) The association must be able to adjust the assessment to meet changed needs.

- g. The Approving Authority shall require that the applicant include, in the conveyance of the common open space, a condition that in the event a common open space is permitted to deteriorate or is not used and maintained consistent with the final site plan, the County may, at its option, cause such maintenance to be done and assess the costs to members of the association.

## **5. Environmental Design**

- a. The preliminary development plan shall provide, to the greatest extent possible, for the preservation of significant landscape features, historic sites and landmarks and for the integration of the proposed development with the environmental characteristics of the site and adjacent areas. The Approving Authority may require that significant landscape features and historical sites be preserved as part of the common open space of the project.
- b. The Approving Authority may require the applicant to submit a grading plan detailing proposed excavation, earth moving procedures, and other changes to the landscape, in order to ensure preservation of the character of the area to be retained in open space.
- c. The Approving Authority may require that all floodplain be preserved as permanent common open space, and may require that other natural hazard areas (such as areas subject to landslides, areas with average slopes greater than 25 percent and areas with unstable soil formations) be included in the common open space of the proposed development and be left unimproved or improved to assure minimization of the hazard.
- d. All manufactured slopes, other than those constructed in rock, shall be planted or otherwise protected from the effects of storm runoff erosion, and shall be of a character to cause the slope to blend with the surrounding terrain and development. The applicant shall provide for maintenance of the planting until growth is established.
- e. The preliminary development plan should promote the conservation of energy and use of solar or other renewable energy resources through such factors as the location and extent of site improvements, the orientation and exposure of buildings and usable open spaces, the types of buildings, and the selection of building materials.

## **6. Traffic Circulation**

- a. The location and number of points of access to the site, the interior circulation pattern of streets and pedestrian ways, the separations

between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings and uses.

- b. The Approving Authority may allow reduced street widths and standards for internal traffic circulation.

## **7. Perimeter Design**

- a. If topographical or other barriers do not provide reasonable privacy for existing uses adjacent to the development, the Approving Authority may require one or more of the following:
  - (1) A special setback or setbacks of residential and nonresidential structures located on the perimeter.
  - (2) Residential and nonresidential structures located on the perimeter of the development be screened by fencing, landscaping or other natural or man-made materials.

## **SECTION 5.300 Development Phasing**

1. The applicant may provide in the preliminary site plan for development of the project in up to three (3) phases.
2. In acting to approve the preliminary site plan, the Approving Authority may require that development be completed in up to three specific phases, if it finds that public facilities would not otherwise be adequate to serve the entire development.
3. If the preliminary site plan provides for phased development, each phase shall provide for the same ratio of open space and/or recreational facilities to dwelling units as the overall project. Development of accessory commercial uses shall be limited to the final phase.
4. The following time limitations shall be observed in phased development proposals:
  - a. Phase 1 --- final site plan must be approved within twenty-four (24) months of the date of preliminary site plan approval.
  - b. Phase 2 --- final site plan must be approved within thirty-six (36) months of the date of preliminary site plan approval.
  - c. Phase 3 --- final site plan must be approved within forty-eight (48) months of the date of preliminary site plan approval.

### **SECTION 5.350 Duration of PD Preliminary Site Plan Approval**

1. Approval of the preliminary site plan shall be valid for twenty-four (24) months from the date of approval, provided that if an approved preliminary site plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the time limitations of §5.300.4 of this chapter.
2. If any time limit for obtaining final site plan approval is exceeded, the approved preliminary site plan, or phase of the preliminary site plan and any subsequent phase, shall be void. Any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new Administrative Action.

### **SECTION 5.400 Extensions of PD Preliminary Site Plan Approval**

1. An applicant may request an extension of the validity of the preliminary site plan approval or, if the preliminary site plan provides for phased development, an extension of the validity of preliminary site plan approval with respect to the phase the applicant is then developing.
2. Such request shall be submitted to the Director in writing, stating the reasons why an extension should be granted.
3. The Director may grant an extension of up to twelve (12) months in the validity of a preliminary site plan approval or, if the preliminary site plan provides for phased development, an extension of up to twelve (12) months in the validity of a preliminary site plan approval with respect to the phase then being developed, if the Director determines that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final site plan approval within the original time limitation.

### **SECTION 5.450 PD Final Site Plan Approval**

Approval of a PD final site plan by the Director shall be a ministerial act under §2.060.2.

1. Within twenty-four (24) months of the date of approval of the PD preliminary site plan, unless otherwise specified pursuant to §5.300 and 5.400 of this chapter, the applicant shall submit a final site plan, prepared by an Oregon registered engineer, and supporting documents to the Director.
2. The final site plan shall include:
  - a. The site plan and maps submitted pursuant to §5.200.3.b in their final, detailed form, and including proof that an adequate, potable, year-round water supply is available for the development.

- b. The documents submitted pursuant to §5.200.3.a amended to incorporate any conditions imposed on the preliminary site plan approval.
  - c. Final subdivision plat or partition map, if the land is to be divided. Such maps shall conform to §4.200 or §4.250 as applicable, except to accommodate special design standards under this chapter.
  - d. Except as permitted by the Approving Authority as provided in Chapter 5, documents conveying common open space to a Homeowners' Association, including the restrictive covenants and conditions required by §5.250.4.e to g.
  - e. Articles of Incorporation of the Homeowners' Association formed to maintain common open space and other common improvements.
3. The Director shall require the applicant to enter into an agreement with the County to complete all improvements required by the final development plan according to a schedule set forth in the agreement.
  4. Agreement for Improvements
    - a. Before approval of the final site plan, the applicant shall either install the improvements required by the preliminary site plan approval and repair existing streets and other public facilities damaged in the development of the PD, or shall execute and file with the County an agreement between himself and the County specifying the period within which required improvements and repairs will be completed. The agreement may provide for the construction of the required improvements in phases. The agreement shall provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.
    - b. An applicant may request an extension of time for completion of required improvements. Such request will be considered an application for Ministerial Action. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him to fulfill the agreement within the original time limit(s).
    - c. The agreement for improvements may be nullified, as a major amendment pursuant to §4.300.3, upon a demonstration by the applicant that a major change in circumstances, beyond the control of the applicant, has made it impossible to continue the project to completion. The County may rescind the agreement for improvements after approval of the major amendment.

## 5. Performance Bond

- a. To assure full performance of the improvement agreement, an applicant shall file one of the following:
  - (1) A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the County Counsel; or
  - (2) Cash deposit with the County Treasurer; or
  - (3) Certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the Director of Public Works. The bank certification or letter of assurance shall be approved by the County Counsel; or
  - (4) Cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon the direction of the Director of Public Works. Escrow instructions shall be approved by the County Counsel.
- b. Such assurance of full and faithful performance shall be for a sum determined by the Public Works Director to be sufficient to cover the cost of the improvements and repairs that may be required prior to approval of the final site plan, including related engineering, and may include an additional percentage as determined by the Public Works Director to cover any inflationary costs which may be incurred during the construction period prior to the full and final completion of the project.
- c. If the applicant fails to carry out provisions of the improvement agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the applicant shall be liable to the County for the difference.

## 6. Action by the Director

The Director shall act on the application for final site plan approval within thirty (30) days of submittal, and shall approve the final site plan if he finds:

- a. The applicant has submitted all information and documents required pursuant to Subsections 2, 3, 4, and 5 of this section; and
  - b. The final site plan is in substantial compliance with the approved preliminary site plan and any conditions imposed by the Approving Authority. Substantial compliance means that any differences between the final and preliminary site plans are "minor amendments," as defined in §5.550.1 of this chapter.
7. Recording of Final Development Plans

The approved final site plan shall be recorded in the County Clerk's office.

### **SECTION 5.500 Expiration of Final Site Plan Approval**

1. If the Director determines that no substantial construction or development has occurred within 2 years of the date of approval of the final site plan for a PD, or for a phase thereof, the Director may initiate an Administrative Action to consider invalidating the final site plan approval.
2. If an action is initiated, the Approving Authority shall invalidate such final site plan approval unless it finds that the applicant was not responsible for the failure to complete substantial construction, and that the applicant will be able to complete the development within 2 years.
3. If final site plan approval is invalidated, any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new application for preliminary site plan approval.

### **SECTION 5.550 Amendments to Approved Preliminary and Final Site Plans**

1. Definitions:
  - a. "Minor amendment" means a change which:
    - (1) Does not increase residential densities;
    - (2) Does not enlarge the boundaries of the approved plan;
    - (3) Does not change any use;
    - (4) Does not change the general location or amount of land devoted to a specific land use, including open space;
    - (5) Does not eliminate the preservation of a significant landscape feature; and

- (6) Includes only minor shifting of the location of buildings, proposed public or private streets, pedestrian ways, utility easements, or common or public open spaces.
  - b. "Major amendment" is any change which does not meet the definition of a "minor amendment".
2. A minor amendment to an approved preliminary or final site plan may be approved ministerially by the Director.
  3. A major amendment to an approved preliminary or final site plan shall be considered an Administrative Action subject to the provisions of Chapter 2 of this ordinance.