

## Article 7. Planned Unit Development Standards

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### Sec. 17.0701. Intent and Purpose

The purpose of the regulations, standards, and criteria contained in this Article is to provide an alternate zoning procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design when sufficiently justified under the provisions of this Article. The objective of the planned development is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. The end result can be a product which fulfills the objectives of the Comprehensive Plan and planning policies of the City while departing from the strict application of the use and bulk regulations as detailed in Chapter 17.03. The planned development is intended to permit and encourage such flexibility and to accomplish the following purposes:

- (a) To stimulate creative approaches to the commercial, residential, and mixed-use development of land.
- (b) To provide more efficient use of land.
- (c) To preserve natural features and provide open space areas and recreation areas in excess of that required under conventional zoning regulations.
- (d) To develop new approaches to the living environment through variety in type, design, and layout of buildings, transportation systems, and public facilities.
- (e) To unify building and structures through design.

- (f) To promote long-term planning pursuant to the City of Oak Creek’s Comprehensive Plan, which will allow harmonious and compatible land uses or combination of uses with surrounding areas.

### Sec. 17.0702. General Provisions

- (a) The following may be approved as a planned development:
  - (1) Any development greater than five (5) acres in size containing mixed-residential, multifamily residential, mixed-use, or nonresidential/mixed-residential combination with single-family detached, single-family attached, or multi-family uses.
- (b) Each planned development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a planned development upon an already existing planned development except to the extent such planned development has been approved as part of a development master plan.
- (c) The burden of providing evidence and persuasion that any planned development is necessary and desirable shall in every case rest with the applicant.

### Sec. 17.0703. Standards for Review

Approval of development through the use of a Planned Unit Development, including modifications to conventional zoning and subdivision regulations, is a privilege and will be considered by the City only in direct response to the accrual of tangible benefits from the planned development to the City or the neighborhood in which it would be located. These benefits shall be in the form of exceptional amenities, outstanding environmental, landscape, architectural or site design, or the conservation of special man-made or natural features of the site. In reviewing an application for a planned development, the Plan Commission and/or the Common Council, as the case may be, shall be required to make certain findings based on the following standards:

- (a) **Required Findings.** No application for a planned development shall be approved unless all the following findings are made about the proposal:
  - (1) **Comprehensive Plan.** The planned development shall be consistent with the goals, objectives, and policies set forth in the Comprehensive Plan.
  - (2) **Public Welfare.** The planned development shall be so designed, located, and proposed to be operated and maintained that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire or otherwise endanger the public health, safety, and welfare.
  - (3) **Impact on Public Facilities and Resources.** The planned development shall be so designed that adequate utilities, road access, drainage, and other necessary facilities will be provided to serve it. The planned development shall include such impact fees as may be reasonably determined by the Common Council. These required impact donations shall be calculated in reasonable proportion to impact of the planned development on public facilities and infrastructure.

- (4) **Archaeological, Historical or Cultural Impact.** The planned development shall not substantially adversely impact an archaeological, historical, or cultural resource, included on the state or federal register, located on or off the parcel(s) proposed for development.
  - (5) **Parking and Traffic.** The planned development shall have or make adequate provision to provide necessary parking and ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets and provides adequate access for emergency vehicles.
  - (6) **Adequate Buffering.** The planned development shall have adequate landscaping, public open space, and other buffering features to protect uses within the development and surrounding properties.
- (b) **Modification Standards.** In addition to the findings required above, the following standards shall be utilized in considering applications for modifications of the conventional zoning and subdivision regulations for a planned development. These standards shall not be regarded as inflexible but shall be used as a framework by the City to test the quality of the amenities, benefits to the community, and design and desirability of the proposal.
- (1) **Integrated Design.** A planned development shall be laid out and developed as a unit in accordance with an integrated overall design. This design shall provide for safe, efficient, convenient, and harmonious grouping of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features.
  - (2) **Beneficial Common Open Space.** Any common open space in the planned development beyond the minimum thirty (30) percent required shall be integrated into the overall design. Such spaces shall have a direct functional or visual relationship to the main building(s) and not be of isolated or leftover character. The following would not be considered usable common open space:
    - a. Areas reserved for the exclusive use or benefit of an individual tenant or owner.
    - b. Dedicated streets, alleys, and other public rights-of-way.
    - c. Vehicular drives, parking, loading and storage area.
    - d. Irregular or unusable narrow strips of land less than fifteen (15) feet wide.
  - (3) **Location of Taller Buildings.** Taller buildings shall be located within the planned development in such a way as to dissipate any material adverse impact on adjoining lower buildings within the development or on surrounding properties and shall not unreasonably invade the privacy of occupants of such lower buildings.
  - (4) **Functional and Mechanical Features.** Exposed storage areas, trash and garbage retainers, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be accounted for in the design of the planned development and made as unobtrusive as possible. They shall be subject to such setbacks, special planting or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

- (5) **Visual and Acoustical Privacy.** The planned development shall provide reasonable visual, and acoustical privacy for each dwelling unit, tenant space, and adjacent property. Fences, insulations, walls, barriers, and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable view or uses, and reduction of noises.
- (6) **Energy Efficient Design.** A planned development shall be designed with consideration given to various methods of site design and building location, architectural design of individual structures, and landscaping design capable of reducing energy consumption within the planned development.
- (7) **Landscape Conservation and Visual Enhancement.** The existing landscape and trees in a planned development shall be conserved and enhanced, as feasible, by minimizing tree and soil removal, and the conservation of special landscape features such as streams, ponds, groves, and landforms. The addition or use of larger trees, shrubs, flowers, fountains, ponds, special paving amenities will be encouraged to the extent of their appropriateness and usefulness to the planned development and the likelihood of their continued maintenance.
- (8) **Drives, Parking and Circulation.** Principal vehicular access shall be from dedicated public streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and limiting the number of access points to the public streets through the use of cross access connections, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe and convenient, and insofar as feasible, do not detract from the design of proposed buildings and structures and the neighboring properties.
- (9) **Surface Water Drainage.** Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely impact neighboring properties or the public storm drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic.

## Sec. 17.0704. Site Development Allowances

Notwithstanding any limitations on variances which can be approved as contained elsewhere in the Zoning Ordinance, site development allowances, i.e., deviations from the underlying zoning provisions set forth outside this Article may be approved provided the applicant specifically identifies each such site development allowance and demonstrates how each such site development allowance would be compatible with surrounding development, is in furtherance of the stated objectives of this Article, and is necessary for proper development of the site.

## Sec. 17.0705. Procedures

The following steps are provided to assure the orderly review of every planned development application in a timely and equitable manner:

### (a) Pre-Filing Review and Transmittal of Application

#### (1) Conference.

- a. A prospective applicant, prior to submitting a formal application for a planned development, may meet for a pre-filing conference(s) with the Community Development Director or their designee and any other City official or employee designated by the Community Development Director or their designee as a member of the Development Review Team. The purpose of the conference(s) is to help the applicant understand the Comprehensive Plan, Zoning Ordinance, site development allowances, standards by which the application will be evaluated, and the application requirements.
- b. After reviewing the planned development process, the applicant may request a waiver of any application requirement which in the applicant's judgment should not apply to the proposed planned development. Such request shall be made in writing prior to the submission of the formal application documents.
- c. All requests for waiver shall be reviewed by the Community Development Director. A final determination regarding the waiver shall be given to the prospective applicant following the decision. Denied requests may be appealed to the Common Council.
- d. The applicant, prior to submitting a formal application for a planned development, shall be required to schedule a meeting to discuss the proposed planned development and its impact on adjoining properties and area residents. The applicant shall send a written notice of the meeting via mail to the City of Oak Creek and all taxpayers of record within three-hundred (300) feet of the proposed planned development. Such notice shall be mailed by the applicant not less than fifteen (15) days prior to the date of the meeting. A written summary of comments made at the meeting shall be maintained and submitted by the applicant with the application.

(2) **Filing of Application.** Following the completion of the prefiling conference(s), the applicant shall file an application for a planned development in accordance with this Article. The Community Development Director or their designee shall deliver copies of the application to other appropriate City departments for review and comment.

(3) **Deficiencies.** The Community Development Director or their designee shall determine whether the application is complete. If the Community Development Director or their designee determines that the application is not complete, a department representative shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied.

- (4) **Application Review.** The Community Development Director or their designee shall work with the Development Review Team and the applicant to review and revise the application.
- (5) **Report on Compliance.** A copy of the complete application and a written report incorporating the comments of City staff and other agencies regarding the compliance of the proposed planned development with the requirements and standards of this Article shall be delivered to the Plan Commission. The Plan Commission shall review and make a recommendation to approve or deny the application to the Common Council, which shall hold a public hearing..
- (6) **Determination not Binding.** Neither the Community Development Director or their designee determination that an application is complete nor any comment made by the Community Development Director or their designee or City staff at a pre-filing conference or as part of the review process shall be intended or construed as a formal or informal recommendation for the approval of a planned development for the proposed planned development, or component part thereof, nor shall be intended or construed as a binding decision of the City, the Plan Commission, or any staff member.

**(b) Plan Commission Review and Recommendation.**

- (1) Upon receiving the report from the Community Development Director or their designee, the Plan Commission shall review the application, the standards and requirements established by this Article, the report of the Community Development Director or their designee, and any and all evidence and testimony received by the Plan Commission. At a regular meeting, the Plan Commission shall present its findings addressing each of the standards set forth in this Article and transmit such findings, together with a recommendation of approval, approval with conditions, or denial to the Common Council.

**(c) Review and Action by the Common Council.**

- (1) After the receipt of the report and recommendation of the Plan Commission, the Common Council shall hold at least one (1) public hearing on the proposed planned development. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with the provisions of Section 17.0804, State law and rules of procedure adopted by the Common Council.
- (2) The Common Council shall review the application, the standards and requirements established by this Article, the report of the Community Development Department, the recommendation of the Plan Commission, and any and all evidence and testimony received by the Common Council at the public hearing. Following the close of the public hearing and at a regular meeting, the Common Council shall either:
  - a. deny the application;
  - b. refer the application back to the Plan Commission for further review;
  - c. postpone further consideration pending the submittal of additional information, including any application requirement previously waived; or

d. adopt an ordinance approving the planned development.

(3) In approving a planned development, the Common Council may attach such conditions to the approval as it deems necessary to have the proposed use or combination of uses meet the standards set forth in this Article and to prevent or minimize adverse impacts on other property in the immediate vicinity. Such conditions may include, but are not limited to limitations on size, bulk, and location; requirements for landscaping, signage, outdoor lighting, provisions for adequate ingress and egress; hours of operation; and such other conditions as the Common Council may deem to be in furtherance of the objectives of this Article.

### Sec. 17.0706. Application Requirements

- (a) An application for a planned development may only be filed by one who has an ownership interest, or the agents thereof; or any contract purchaser or anyone holding an option to purchase the parcel of land on which the use or combination of uses is to be located.
- (b) Applications for a planned development shall be filed with the Community Development Director or their designee in such form and accompanied by such information, with sufficient copies, as shall be established from time to time by the City. Every application shall contain, at a minimum, the following information, and related data and any other plans or studies necessary to determine the potential impact of the development as determined by the City:
  - (1) The names and addresses of the owner of the subject property, the applicant, and all persons having an ownership or beneficial interest in the subject property and proposed planned development.
  - (2) A statement from the owner of the subject property, if not the applicant, approving of the filing of the application by the particular applicant.
  - (3) A survey of, and legal description and street address for the subject property.
  - (4) A statement indicating compliance of the proposed planned development with the Comprehensive Plan; and evidence of the proposed project's compliance in specific detail with each of the "Standards for Review" for planned developments.
  - (5) A scaled site plan showing the existing contiguous land uses, natural topographic features, zoning districts, public thoroughfares, transportation, and utilities.
  - (6) A design standards and concept plan document.
  - (7) The substance of covenants, easements, and other restrictions existing and any to be imposed on the use of land, including common open space, and buildings or structures.
  - (8) A schedule of development showing the approximate date for beginning and completion of each stage of construction of the planned development.
  - (9) A professional traffic study acceptable to the City showing the proposed traffic circulation pattern within and in the vicinity of the area of the planned development, including the location and description of public improvements to be installed, and any streets and access easements.



- (10) A professional economic analysis acceptable to the City, including the following:
  - a. The financial capability of the applicant to complete the proposed planned development;
  - b. Evidence of the project's economic viability; and
  - c. An analysis summarizing the economic impact the proposed planned development will have upon the City.
- (11) Copies of all environmental impact studies as required by law.
- (12) An analysis setting forth the anticipated demand on all City services.
- (13) A plan showing off-site utility improvements required to service the planned development.
- (14) A site drainage plan for the commercial planned development.
- (15) A written summary of residents' comments, pertaining to the proposed application, from any meeting held pursuant to the requirements of this Article.
- (c) Every application must be accompanied by a fee in such amount as established in **Chapter ## of City Municipal Code of Ordinances**.

## **Sec. 17.0707. Effect of Approval or Denial**

- (a) Approval of the planned development by the Common Council authorizes the applicant to proceed with any necessary applications for site plan approval, building permits, certificates of occupancy, and other permits which the City may require for the proposed planned development. The City's Community Development Director or their designee shall review applications for these permits for compliance with the terms of the planned development granted by the Common Council. No permit shall be issued for development which does not comply with the terms of the planned development.
- (b) The Common Council shall direct the Community Development Director or their designee to revise the Official Zoning Map to reflect the existence and boundaries of each planned development through the application of the Planned Unit Development Overlay District.
- (c) Subject to subsection g below, an approval of a planned development by the Common Council shall be null and void if the recipient does not file an application for a building permit relative to the proposed planned development within twelve (12) months after the date of adoption of the ordinance approving the planned development.
- (d) Subject to subsection g below, an approval of a planned development by the Common Council shall be subject to revocation if construction has not commenced within two (2) years and does not comply with the construction schedule filed with the petition.
- (e) Subject to subsection g below, an approval of a planned development with a phasing plan shall be null and void if construction has not commenced or is not completed in accordance with the terms of that phasing plan.



- (f) An extension of the time requirements stated in subsections c, d, and e, of this Section may be granted by the Common Council after recommendation by the Plan Commission for good cause shown by the applicant, provided a written request is filed with the City at least four (4) weeks prior to the respective deadline.
- (g) No application for a planned development which was previously denied by the Common Council shall be considered by the Plan Commission or the Common Council if it is resubmitted in substantially the same form and/or content within one (1) year of the date of such prior denial. In this regard:
  - (1) The Community Development Director or their designee shall review the application for a planned development and determine if the application is or is not substantially the same. An applicant has the right to request a hearing before the Common Council to appeal the determination of the Community Development Director or their designee that the application is substantially the same, provided a petition for appeal is filed in writing with the Community Development Director or their designee within ten (10) days of the Community Development Director's or their designee's determination.
  - (2) The Common Council shall affirm or reverse the determination of the Community Development Director or their designee, regarding whether the new application is in substantially the same form after receipt of a petition for appeal.
  - (3) If it is determined that the new application is not substantially in the same form, then the applicant shall be entitled to continue with the application process in accordance with the provisions of the set forth herein.

## **Sec. 17.0708. Amendments and Alterations to Approved Planned Developments**

- (a) Except as provided in subsection b below, any modifications to an approved planned development or any addition to or expansion of an existing planned development shall require separate review and approval under the provisions of the Zoning Ordinance.
- (b) A minor change is any change in the site plan or design details of an approved planned development which is consistent with the standards and conditions applying to the planned development and which does not alter the concept or intent of the planned development. A minor change shall not increase the planned development's density, increase the height of buildings, reduce open space, modify the proportion of housing types, change or add new parking areas, alter alignment of roads, utilities or drainage, amend final development agreements, provisions or covenants, or provide any other change inconsistent with any standard or condition imposed by the Common Council in approving the planned development. Said minor change may be approved by the Community Development Director or their designee without obtaining separate approval by the Common Council. In addition, the Common Council may, after reviewing the request for a major change made by the applicant, direct the Community Development Director or their designee to process the request as a minor change.

- (c) A major change is any change in the site plan or design details of an approved planned development which is not a minor change as detailed in subsection b above.