

Planned Unit Developments

by Mary McMaster, Esq.

One type of development that planning commissioners are often required to evaluate is the planned unit development, typically referred to as a "PUD." The PUD allows for more flexible development practices than traditional "grid" zoning. Essentially, PUD zoning permits a developer to meet overall density and land use goals without being bound by rigid requirements such as minimum lot standards and use categories.

For example, a community may require the same overall density within a PUD as that of the surrounding area. However, the community may allow development within the PUD to be massed or clustered so that the individual lots are smaller but more open space is preserved than would occur under traditional zoning. The PUD concept can also be applied to encourage creative mixes of land uses, by permitting certain nonresidential uses (or a mix of single and multi-family residences) in the development.

Probably the most popular form of PUD is the *planned residential development* or "PRD." PRDs are limited to only residential uses, so they do not provide for a mix of uses otherwise allowed under a PUD plan. However, like the PUD, the PRD allows for much greater creativity and flexibility in design and layout.

The planned unit development concept has been used primarily for new subdivisions of vacant developable land. By allowing developers to depart from "cookie cutter" lot forms and set-back requirements, more creative use of open space and urban design is possible.

An important benefit of allowing PUDs in undeveloped areas is that they can aid in the preservation of areas containing natural resources. A PUD project which incorporates a wetland or other area of particular concern can be developed in such a way that more of the wetland or

natural area is preserved than would occur under standard zoning practices. This is accomplished by allowing the developer to make use of smaller lots in exchange for preserving the natural area.

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Of course, even under standard zoning, communities can require park and open space dedications and discourage development from occurring in environmentally sensitive areas such as wetlands. PUDs, however, have the significant benefit of enabling much more open space or natural features to be preserved than might otherwise be legally or politically feasible. Again, this is accomplished by permitting the developer to build more densely on the remainder of the site than would otherwise be allowed under the community's standard zoning.

For example, assume that there are regulations in place that allow a local government to require one acre of parkland dedication for a twenty acre subdivision. If there is a ten acre subdivision which happens to contain a two acre area that is rich in bird habitat, under traditional zoning it might be difficult to preserve that habitat without the community having to purchase it. On the other hand, if a PUD development were allowed, the two acre site could be set aside in exchange for slightly more dense

development on the remaining eight acres.

Recently PUD zoning has also become a popular technique for use in infill areas. In such areas, a PUD designation can help address concerns relating to the need for mixed uses in an already developed urban area or to problems with nonconforming uses in a transitional area.

In the City of Benicia, California, the planned unit development concept is being used to allow for infill in an industrial area in which warehouses are being converted into artist live-work spaces, studios and galleries. Prior to the enactment of the PUD provision, the warehouse conversions were not permissible under the city's zoning ordinance. While the community wanted to rezone the area in a way that would encourage new uses of the warehouse buildings, it also wanted to maintain some review of the developments (without imposing rigid restrictions on them).

To accomplish this the community rezoned the area as a planned unit development. Under the new PUD designation, even the owner of a small warehouse can redevelop with a flexible mix of commercial, residential and studio space. It should be noted, however, that although the community's PUD zoning does provide for a great deal of flexibility in terms of design and uses, community needs dictated that certain performance standards be imposed. For instance, since parking in the area is problematic, minimum parking ratios are imposed on all PUD developments.

PREPARING A PUD ORDINANCE.

Most communities having PUD ordinances allow PUD developments only in certain zoning districts, as "overlay" zones. This approach typically gives the developer the option of either submitting an application that conforms with the dimensional and use requirements of the "underlying"

zoning district (i.e., the zoning district in which the property is located) or submitting an application that takes advantage of the ordinance's PUD provisions.

Typically, a PUD ordinance contains the following provisions:

- A short goals statement. For example, goals of the Los Angeles County Residential Planned Development Zone are: "to promote residential amenities beyond those expected under conventional development, to achieve greater flexibility in design, to encourage well-planned neighborhoods through creative and imaginative planning as a unit, and to provide for appropriate use of land which is sufficiently unique in its physical characteristics or other circumstances to warrant special methods of development."
- A statement of where the ordinance will apply and any special restrictions such as minimum project sizes.
- A statement of the uses permitted. In addition to residences these may include neighborhood oriented commercial uses, hiking or bike trails, golf courses, or other uses the community wishes to integrate with residential uses.
- Standards for overall project density, building coverage and parking. Some communities may want to impose minimum lot sizes that are smaller than would otherwise be required in order to ensure that even with shared open space each residential unit will still have some private open space.
- Standards for landscaping and maintenance of the project.
- Provisions for regulating the development of the project if it is to be built in more than one phase. It is a good idea to make sure that the community has the authority to prevent a developer from building only the higher density areas of an overall project and then "walking

away" from the project.

- Criteria to be applied if the community wishes to allow for higher density or permit certain uses in special circumstances.
- The procedures for applying to develop under the PUD provision, and how the PUD application will be processed.

In most communities PUD developments must be approved by the planning commission with right of appeal to the governing body. Because of the greater flexibility permitted under a PUD zone, evaluating a PUD project can be more subjective than reviewing conventional development. However, the inclusion of clear review standards and criteria will serve to minimize the potential for arbitrariness.

Early communications, and meetings, between planning staff and potential PUD applicants is strongly advised. This will ensure that applicants are aware of the PUD objectives and approval criteria and that planning staff understand the goals of the applicant and the constraints that he or she is working under.

SUMMING UP

A well conceived PUD ordinance, by allowing for increased flexibility in the design and siting of projects, can provide both community residents and developers with greater benefits than might be possible using traditional zoning criteria. Planning commissioners should consider PUD projects an opportunity to creatively implement planning concepts. ♦

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