

Chapter 26

PLANNED UNIT DEVELOPMENTS

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10-26-1: PURPOSE:

The intent of PUD overlay district regulations is to permit greater flexibility, and consequently, more creative design for development than generally is possible under conventional zoning regulations or subdivision regulations as affected by zoning regulations. It is further intended to promote more economical and efficient use of land while facilitating a harmonious variety of neighborhood development, a higher level of urban amenities, and preservation of natural scenic qualities of open spaces. (Ord. 3805, 7-21-2008)

10-26-2: USE REQUIREMENTS:

All uses allowed within the underlying land use district are permitted within a PUD. Also, up to twenty percent (20%) of the gross land area may be directed to other uses that are or would not otherwise be allowed within the base/starting/underlying land use district; provided, there is a favorable finding by the planning and zoning commission that the criteria for approval of such uses, as outlined in this chapter, are satisfied. Unless multiple land use zones are used/applied within a project, the use of a PUD shall be the only means whereby the city of Nampa will/shall allow uses in a zone not normally allowed therein, development agreement conditions not excepting. (Ord. 4070, 10-7-2013)

10-26-3: OWNERSHIP/AREA REQUIREMENTS:

An application for a PUD permit may be filed by a single person or party (i.e., an LLC, Inc., etc.) having an existing interest in or option to purchase on the property to be included in the PUD. The application shall be filed in the name(s) of the recorded owner or contract purchaser. However, the application may be filed by the holder(s) of an equitable interest in such property. Before approval is granted for a/the PUD, the entire project shall be under single ownership or control and legal title or proof of a legally binding sales agreement must be presented with the final development plan. Unless otherwise approved by the commission, no PUD shall be for an area less than two (2) acres in size. (Ord. 3805, 7-21-2008)

10-26-4: EXCEPTIONS TO DISTRICT REGULATIONS:

Individual uses and structures in PUDs need not comply with the specific zoning based regulations of the underlying districts provided the following basic principles are adhered to:

A. Detached Building Spacing:

1. Fire Regulations: Where two (2) walls oppose each other, minimum separation shall be as required by city fire regulations.
2. Privacy: Where windows are placed in only one of two (2) facing walls or there are no windows, or where the builder provides adequate screening for windows, or where the windows are at such a height or location to provide adequate privacy, the building spacing may be reduced.
3. Light and Air: Building spacing may be reduced where there are no windows or very small window areas and where rooms have adequate provisions for light and air from another direction.
4. Use: When areas between buildings are to be used for utility purposes a reduction of building spacing shall be permitted. Where this use is similar for both houses, a reduction of building space permitting effective design of a utility space shall be permitted. Kitchens and garages are suitable uses for rooms abutting such utility yards.
5. Building Configuration: Where building configuration is irregular so the needs expressed in subsections A2, A3 and A4 of this section are met by the building configuration, reduced building spacing is permissible, as determined by the average spacing or by measuring spacing where rooms open toward adjacent buildings.

B. Bulk Requirements (i.e., Setbacks, Property Depth, Property Width, Building Height, Density, And Street Frontage): Bulk requirements that would otherwise be applicable to a project developed in a given zone wherein a PUD is proposed/allowed may be altered by the commission as part of a PUD's review and approval process. The commission may allow deviations from those setback, property depth, property width, building height, density (required property area) and street frontage requirements without one or more variance application permits being required provided that they conclude that any code required bulk requirement exceptions allowed comply with the following standards by assuring that:

1. Building Separation: Any detached structures shall be set at least six feet (6') apart;
2. Parking Space Clearance: Any garages, carports or parking pads shall be no closer to the drive, street or alley which they access than twenty feet (20');
3. Access: Access to a public street is assured to each and every building lot/parcel by recorded easement;
4. Setback: At least five feet (5') is maintained between any detached structure and a side or rear building lot property line;
5. Residential Unit Density: Density of residential units is kept to that normally allowed by the base zone in which the PUD is located/proposed plus ten percent (10%), unless the PUD is deemed to be an "infill development" in which case the density may be increased by twenty percent (20%) above the base zoning allowance. If a PUD is residential in base nature and proposed in conjunction with or later applied against a subdivision, the allowances made in section 10-27-4 of this title shall not stack with or be in addition to the allowances made in this chapter. In other words, a project may use the allowances in section 10-27-4 of this title

in a residential subdivision or the allowances of this chapter but not one in addition to the other;

6. Height of Buildings: Building heights, if increased beyond that normally allowed in the zone in which the PUD is located/proposed, are not increased by more than two (2) stories over and above the height normally allowed and this only when the PUD does not abut an existing single-family residential subdivision on the side(s) of the PUD where the height increase is desired;
 7. Reduced Property Area: For a structure it is sufficient to fully contain that structure on a single lot/parcel.
- C. Zero Lot Line Structure Placement(s): By placing buildings close to or on the lot line or straddling the lot line by common wall construction, and reducing lot frontage, higher densities can be achieved while at the same time maintaining privacy and an increased amount of open space. Zero lot line units shall be allowed in PUDs provided the following requirements are met:
1. In the case of common wall construction all applicable city, state and federal building regulations shall be complied with.
 2. Sites shall be selected to avoid drainage problems since it becomes more difficult for each lot to drain on its own with one side yard eliminated.
 3. In the case of buildings which are to be placed close to or on the lot line the following shall apply:
 - a. The adjoining lot shall provide a five-foot (5') maintenance easement on the zero lot line side.
 - b. The use of maintenance easements shall be restricted to daylight hours and the total number of days per year the easement may be used shall be agreed upon.
 - c. The owner(s) of the adjacent lot shall not make any attachments to lot line walls, alter it in any way, or use it as a playing surface for any sport. (Ord. 3805, 7-21-2008)

10-26-5: OPEN SPACE REQUIREMENTS:

- A. Common Open Space: Unless otherwise approved, not less than fifteen percent (15%) of the total gross area of any residentially based PUD shall be retained as permanent, common open space privately held and maintained by the PUD's property owners.
- B. Open Space (Functional) Includes: Open space may, and shall, only be constituted by/as:
 1. Land area of the overall PUD project site which is neither covered by buildings, parking structures, or accessory structures (except commonly held recreational structures), nor is trapped inside individual, privately held building lots. Also, open space lots or parcels provided in a development shall be not less than six thousand (6,000) square feet in area nor less than thirty feet (30') in their smallest width or depth dimension unless due to the need to make them into odd shapes as approved by the commission;

2. Land which is held in common by all property owners in the PUD and shall therefore be both legally and physically available and accessible to all occupants of dwelling units in the PUD.

C. Not Included: Open space shall not be deemed to be, nor construed to include:

1. Any proposed or existing street, common driveway, service drive, alley or rights of way or easements.
2. Any open parking pads/areas and driveways for dwelling units.
3. Any school sites (including all lands inside a school's property boundaries or lacking such its playground(s)).
4. Any commercially developed areas or areas proposed to be devoted to commercial uses, and, the land devoted to/covered by buildings, accessory buildings, parking and loading facilities for these areas.
5. Unsuitable land (e.g., a hillside, water channel, waterway easement area, swamp or high water table ground, etc.) as may be determined by the commission. Specifically regarding slopes, open spaces with excessive slope are unusable for most active recreational uses. At least one-half ($1/2$) of the required open space shall have an overall finished grade not to exceed fifteen percent (15%).
6. Land necessarily established in street frontage landscape strips via common lots or in easements in order to satisfy requirements of chapter 27 and/or 33 of this title.

D. Location(s): Common open spaces shall be distributed equitably throughout projects in relation to the dwelling units of the people they are intended to serve. (Ord. 3960, 4-4-2011)

10-26-6: PRIVATE STREETS:

Private streets shall be allowed in PUDs in accordance with city of Nampa standards as noted in the city's adopted subdivision process policy manual and the standard construction specifications manual. (Ord. 3805, 7-21-2008)

10-26-7: CRITERIA FOR APPROVAL:

The commission in making its determination shall give consideration to the following:

- A. Proposed Development: The proposed development is consistent in all respects to the spirit and intent of this chapter, is in general conformance with the comprehensive plan, that the area surrounding the development can be planned and zoned in coordination and substantial compatibility with the PUD and that the benefits and improved design of the development will have a beneficial effect which would not be achieved under standard district regulations.
- B. Project Design:
 1. Project design including:
 - a. Landscaping: Streetscape, open spaces and plazas, use of existing landscape, pedestrian way and recreational areas.

- b. Siting: Visual focal points, use of existing physical features such as topography, view, solar access orientation according to the provisions of the specifications in chapter 27 of this title, sun and wind orientation, circulation patterns, physical environment, variation in building setbacks and building grouping.
- c. Design Features: Street sections, architectural styles, harmonious use of materials, varied use of building types and parking areas broken by landscaping.
- d. Easements: In the case of private reservation the open area to be reserved shall be protected against building development by conveying to the city as a part of the conditions for project approval an open space easement over such open area restricting the area against any future building or except as is consistent with that of providing landscaped open space for the aesthetic and recreational satisfaction of surrounding residences. Building or uses for noncommercial recreational or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or subsequently with the express approval of the council following approval of building, site, and operational plans by the commission.
- e. Maintenance: The maintenance of such open space reservations shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the title to each property.
- f. Ownership: Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the city and made a part of the conditions of the plan approval.
- g. Commercial Area Site Development: The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area creating an effect upon the property values of the surrounding neighborhood compatible with that anticipated under the comprehensive plan.
- h. Commercial Area Planned Groups: Commercial uses, commercial buildings and establishments are planned as groups having common parking areas and common entrance and exit points.
- i. Commercial Area Landscaping: Planting screens or fences shall be provided on the perimeter of any commercial areas/properties abutting residential areas.

All areas designed for future expansion or not intended for immediate development shall be landscaped or otherwise maintained in a neat and orderly manner.

All intervening spaces between rights of way and building lines, and between buildings, drives, parking areas and improved areas shall be landscaped with trees and shrubs and properly maintained.

- j. Industrial Area Site Development: The operational character, physical plant arrangement and architectural design of buildings shall be compatible with contemporary performance standards and industrial development design and will not produce an effect upon the property values of the surrounding neighborhood incompatible with that anticipated under the comprehensive plan.

- k. Industrial Area Planned Groups: There will be harmony of buildings and a compact grouping in order to economize the provision of such utilities as are required.
- l. Industrial Area Landscaping: Industrial uses and parcels shall be developed in parklike surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks and/or storage of raw materials and products.

All intervening spaces between rights of way and building lines, and between buildings, drives, parking areas and improved areas shall be landscaped with fences and shrubs and properly maintained at all times. (Ord. 3805, 7-21-2008)

10-26-8: PROCEDURE FOR PUD PLAN APPROVALS:

- A. Preapplication Meeting: The developer should meet with the planning director prior to submission of the concept plan. The purpose of this meeting is to discuss informally the purpose and effect of this chapter and the criteria and standards contained herein, and to familiarize the developer with the comprehensive plan, "zoning ordinance", "subdivision ordinance" and such other items as deemed appropriate.
- B. Application for A PUD Permit:
 - 1. An application for a PUD permit shall be filed with the planning director or his/her designee by a property owner or person having existing interest in the property.
 - 2. The application shall be on a form as prescribed by the planning director and shall be accompanied by a nonrefundable fee as established by resolution of the council.
 - 3. The application for a PUD permit shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the PUD would be in the public interest.
- C. Public Hearing Procedures: When a public hearing is required by this chapter the same procedures for public hearing and legal notification, as required by chapter 25 of this title for conditional use permits, shall be followed.

Alternatively, an applicant may incorporate all PUD design elements into one plan for presentation to the commission.

- D. PUD Development Plan Details: The preliminary development plan shall be presented in the same form and contain the same information as outlined for preliminary subdivision plats under chapter 27 of this title. In addition, the preliminary development plan shall contain the following information:
 - 1. Location and type of land uses.
 - 2. Parks and community or open spaces.
 - 3. Notation(s) regarding proposed ownership of streets, public or private.

4. A landscape plan identifying landscape materials/elements used for private and common open spaces, intervening spaces between rights of way and building lines, and between buildings, drives and parking areas.
 5. A description of the design principles for buildings and streetscapes; tabulation of the number of acres in the residential population by type of housing; estimated nonresidential population; standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposed an exception from standard zoning districts or other ordinances governing development.
 6. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.
 7. General outline of intended organizational structure related to property owners' association, deed restrictions and provisions of services.
 8. A copy of the legal title to the property or proof of a legally binding sales agreement ensuring the entire project area is under single ownership or control.
 9. Existing features of the development site including major wooded areas and structures.
 10. The pattern of public and private roads, driveways, parking facilities, pedestrianways and intended design standards.
 11. The size arrangement and location of lots or of proposed building groups.
 12. The type, size and location of structures.
 13. The type, size and location of recreational and open space areas and areas reserved or dedicated for public uses such as schools, parks, etc.
 14. Site plan, showing building(s), various functional use areas, circulation and their relationship.
 15. Preliminary building elevation renderings/pictures/etc., as available to the applicant.
- E. Commission Action: Following application for PUD plan approval, the commission shall review the development plan in accordance with the approval criteria set forth in this chapter.
- Approval of the commission along with any pertinent conditions of approval shall cause the planning director or his/her designee to issue a PUD permit in accordance with the approved final development plan and the supplementary conditions attached thereto.
- F. Amendments: Any subsequent amendment to the final development plan changing location, positioning, and height of buildings and structures may be authorized by the commission as a business item without additional public hearings, if required, by engineering or other circumstances not foreseen at the time the final plan was approved. In no case shall the commission authorize changes which may, by reasonable judgment, expectedly cause any of the following:

1. A substantial change in the use or character of the development.
2. A decrease in common open space below that required in the project (e.g., via increase in overall coverage of structures).
3. An increase in the intensity of any afore identified use(s) (e.g., via operating hours, trip traffic, building area increase, signage display, etc.) beyond that presented to the commission.
4. An increase in the problems of traffic circulation and public utilities.

All other changes in use, rearrangement of lots, blocks, travel distances and building tracts, or in the provision of common open spaces and changes other than those listed above which constitute substantial alteration of the original plan, shall require a new public hearing before the commission. (Ord. 3805, 7-21-2008)

10-26-9: SUBDIVISION REGULATIONS:

In addition to those sections of chapter 27 of this title which have been specifically referred to within this chapter, the following sections of this title shall also be applicable and considered a part of this chapter or affect PUDs just like they do residential subdivisions, unless specific exceptions have otherwise been granted by the commission based on positive recommendation(s) from the city's engineering and zoning departments as part of the PUD review and approval process:

- A. Section 10-27-6, "General Development and Improvements; Requirements".
- B. Section 10-27-7, "Construction Observation".
- C. Section 10-27-8, "Subdivision Improvement Agreement".
- D. Section 10-27-10, "Financial Security and Guarantee".
- E. Section 10-27-11, "Dedications".
- F. Section 10-27-12, "Amended Plats; Vacations". (Ord. 3805, 7-21-2008)

10-26-10: EXPIRATION AND EXTENSION OF APPROVAL PERIODS:

If the applicant: a) fails to apply for final development plan approval within two (2) years of approval of the preliminary development plan, or b) fails to record an associated subdivision plat and begin project development within two (2) years of approval of the final development plan, the preliminary and/or final development plans shall be rendered/considered null and void. Extensions of time beyond the two (2) year validity period of approved preliminary and/or final plans may be granted by the commission, in/for up to one year increments, if the commission determines such extensions are in the public interest. (Ord. 3805, 7-21-2008)

10-26-11: CONFLICT WITH OTHER LAWS:

Whenever there is a conflict or difference between the provisions of this chapter and those of other chapters of this title, the provisions of this chapter shall prevail. Subjects not covered by this chapter shall be governed by the respective provisions found elsewhere in this title. (Ord. 3805, 7-21-2008)

10-26-12: FEES:

- A. Persons making application for a PUD permit/approval shall submit requisite materials as determined by the planning director or his/her designee and shall pay to the city a nonrefundable office checking fee in an amount to be established by the council. (Ord. 3805, 7-21-2008)