

Chapter 29**PLANNED DEVELOPMENT OVERLAY ZONE****Sections:**

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29.010 User guide.

This chapter establishes a mechanism for a person to propose a commercial, industrial or residential—nonresidential—mixed-use development that is innovative or otherwise beneficial to the community but which does not strictly comply with the provisions of the commercial or industrial zone in which the property is located. This mechanism, which is called a planned development, is intended to promote high quality developments which benefit the city more than would a development which complies with the specific requirements of this title, while allowing greater flexibility in the design of such developments. The criteria to be used in determining a proposed planned development's quality are listed in subsection 29.050.C.

Persons interested in proposing a planned development, or learning about the planned development review procedures should read this chapter. (Ord. 1671-89 (part), 1989.)

29.020 Review process.

All proposals for a PD planned development overlay zone shall be reviewed using the review process as described in Title 15, Local Project Review Procedures. (Ord. 2601-02 § 1, 2002; Ord. 2538-01 § 16, 2001; Ord. 2384-99 § 1, 1999; Ord. 1671-49 (part), 1989.)

29.030 Minimum lot area.

A. The minimum lot area required for property proposed for a PD planned development overlay zone shall be:

1. B-3 zone—one-half acre;
2. M-1 zone—twenty acres;

3. M-2 zone—five acres;
4. All other commercial or industrial zones—two acres.

B. The PD planned development overlay zone may be applied to residentially zoned property only when the residentially zoned property is combined as a single development proposal with property located in a nonresidential zone or zones, and the combined area of the residential and nonresidential property meets the minimum lot area requirement specified above for the nonresidential zone; and further provided, that the proposed development meets all the requirements of this chapter. (Ord. 2096-95 § 1, 1995; Ord. 1671-89 (part), 1989.)

29.040 Modification of permitted uses.**A. Residential Use.**

1. The planned development overlay zone may allow residential uses to be permitted in zones which do not otherwise permit residential use. Residential use shall only be permitted when part of a mixed-use development in which at least seventy-five percent of the land area is devoted to one or more uses permitted in the use zone, and only when other public benefits are derived by the addition of residential use to the planned development.

2. When residentially zoned property is included in the planned development, the number of dwelling units that would be allowed in the residentially zoned part of the development without the planned development overlay zone may be located anywhere within the planned development; provided, that the proposed development meets other all requirements of this chapter.

B. Nonresidential Uses.

1. The planned development overlay zone may allow nonresidential uses which are not otherwise permitted in the underlying use zone only under one or more of the following circumstances:

a. The use shall be part of a planned development in which not more than twenty-five percent of the gross floor area of the development is devoted to a use which is not otherwise permitted in the underlying use zone.

b. The use shall be supportive of and/or complementary to the other uses within a planned development.

c. The use shall be compatible with the uses permitted on other properties in the surrounding area.

d. There is public benefit to be realized by allowing the proposed use.

2. Nonresidential uses may be located within the residentially zoned portion of a planned development when the proposed development includes residential use as an integral component of the planned development and when nonresidential uses are situated and developed in such a manner as to be compatible with any residential uses that are existing or which could be developed in the adjoining residentially zoned area. (Ord. 2096-95 § 2, 1995; Ord. 1671-89 (part), 1989.)

29.050 Modification of development standards.

A. The city, using the planned development overlay zone, may allow the following development standards to be modified:

1. Building setbacks;
2. Height of building or structure;
3. Required off-street parking spaces;
4. Landscaping requirements;
5. Sign requirements;
6. Standards specified in the "special regulations" portion of the use-standards table;

7. Lot size;
8. Lot width;

9. Design standards contained in this title.

B. Standards which may not be modified or altered are:

1. Shoreline regulations when the property is located in an area under the jurisdiction of the Everett shoreline master program;
2. Standards pertaining to development in environmentally sensitive areas;
3. Regulations pertaining to nonconforming uses;
4. Standards pertaining to screening around outdoor storage areas, except as provided by Section 41.100 of this title.

C. Basis for Approval of Alternative Development Standards. Approval of alternative development standards using the PD planned development overlay zone differs from the variance procedure described in Chapter 41 of this title in that rather than being based upon a hardship or unusual circumstance related to a specific property, the approval of alternative development standards proposed by a planned development shall be based upon the criteria listed in this paragraph. In evaluating a planned development which proposes to modify the development standards of the underlying use zone, the city shall consider and base its findings upon the ability of the proposal to satisfy the following criteria:

1. The proposed planned development's compatibility with surrounding properties, especially related to:
 - a. Landscaping and buffering of buildings, parking, loading and storage areas,
 - b. Public safety,
 - c. Site access, on-site circulation and off-street parking,
 - d. Light and shadow impacts,
 - e. Number, size and location of signs,
 - f. Generation of nuisance irritants such as noise, smoke, dust, odor, glare, vibration or other undesirable impacts,
 - g. Architectural design of buildings and harmonious use of materials;
2. The unique characteristics of the subject property;
3. The unique characteristics of the proposed use(s);

4. The arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development;

5. Visual impact of the planned development upon the surrounding area;

6. Public improvements proposed in connection with the planned development;

7. Preservation of unique natural features of the property;

8. The public benefit derived by allowing the proposed alteration of development standards. (Ord. 2096-95 § 3, 1995; Ord. 1671-89 (part), 1989.)

29.060 Hearing—Determination.

A. The planning commission shall make its decision on the planned development proposal based upon all information presented at the public hearing.

B. The planning commission, after reviewing the evidence, shall take formal action in writing either approving the proposal as presented, approving subject to certain specific modifications, or disapproving it. The action of the planning commission takes the form of a recommendation to the city council. (Ord. 2384-99 § 2, 1999; Ord. 1671-89 (part), 1989.)

29.070 Zoning map amendment.

The procedure for amending the zoning map for a planned development overlay zone shall be in accordance with the procedure described in Chapter 41 of this title for site-specific rezones. (Ord. 2601-02 § 2, 2002; Ord. 2384-99 § 4, 1999; Ord. 1671-89 (part), 1989. Formerly 29.080.)

29.090 Final development plan—Time limit for submission—Extension.

Within a period of three years following the approval of the preliminary development plan by city council or such other time frame established, the applicant shall file with the planning department a final development plan. The planning director, for good cause, may extend for one year the period for filing of the final development plan. (Ord. 2601-02 § 4, 2002; Ord. 1671-89 (part), 1989.)

29.100 Final development plan—Failure to submit.

If the applicant fails to apply for final approval for any reason within the time specified in Section 29.090, the rezone shall become void. All future permits shall be subject to the requirements of the underlying use zone unless a new application for a planned development is submitted and approved. (Ord. 2601-02 § 5, 2002; Ord. 1671-89 (part), 1989.)

29.110 Final development plan—Content—Final approval procedure.

The final development plan shall consist of elements presented for preliminary approval. The procedure involved in final approval shall consist of the following:

A. The final development plan shall be submitted to the planning department.

B. The planning staff shall review the final development plan to see that it is in substantial compliance with the previously approved preliminary development plan.

C. All schematic drawings presented in the preliminary development stage shall be presented in detailed form, i.e., landscaping, circulation, utilities, building location, etc.

D. If the final plan is in substantial compliance with the approved preliminary plan, it shall be approved by the planning director using the review process as described in Title 15, Local Project Review Procedures. (Ord. 2538-01 § 17, 2001; Ord. 1671-89 (part), 1989.)

29.120 Final development plan—Amendments permitted.

A. Minor changes in the location, siting, height of buildings and structures may be authorized by the director without additional public hearings if these changes were required by engineering or other circumstances not known at the time the preliminary plan was approved. No changes authorized by this section may cause any of the following:

1. A change in the use, intensity or character of the development;

2. An increase in the overall ground coverage of structures;

3. An increase in the problems of traffic circulation;

4. A reduction in approved open space, off-street parking, loading zones, right-of-way or pavement width.

B. Changes in uses, rearrangements of lots, blocks, buildings, tracts, or changes in the provision of common open space and changes other than listed above shall be reviewed by the city council following a recommendation from the planning commission, following the same notification and public hearing process as required for the original approval. Such amendments may be made only if they are shown to be in the best long term interests of the community. (Ord. 1671-89 (part), 1989.)

29.130 Mutual safeguards.

A. The city shall not impose additional zoning code standards on a proposed planned development which has been given preliminary approval, even if code standards have been amended, provided a final development plan is submitted within the original three-year period or within the time period prescribed by the development agreement for final development plan submittal. If the applicant requests an extension of time, the city may impose additional standards on the preliminary planned development

approval if such changes are based upon changes to the zoning code or any other ordinances which have occurred since the original planned development approval was granted.

B. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan given preliminary approval, provided any modification by the applicant does not:

1. Increase the residential density;

2. Reduce the area set aside for common open space;

3. Relocate the open space in a manner which makes it less accessible or usable to the public or the tenants of the development;

4. Reduce any of the landscape buffers in width or density of planting between the development and adjoining properties;

5. Change the point(s) of access to different streets;

6. Increase the total ground area covered by buildings or other impervious surfaces;

7. Relocate buildings or impervious surfaces to areas designated as “environmentally sensitive”;

8. Fail to preserve trees or other unique natural features which were required to be preserved by the preliminary planned development approval. (Ord. 2601-02 § 6, 2002; Ord. 1671-89 (part), 1989.)