



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: September 28, 2022

TO: PLANNING COMMISSION

FROM: JENNIFER PAIGE, AICP, ACTING DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ZONING CODE AMENDMENT: PLANNED DEVELOPMENT REGULATIONS

RECOMMENDATION:

It is recommended that the Planning Commission:

1. **Recommend** that the City Council find that the project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), the “common sense rule” that CEQA applies only to projects which have the potential for causing a significant effect on the environment and that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. **Recommend** that the City Council make the findings for approval of the Zoning Code Amendment, Option Two, as outlined in this report.

BACKGROUND:

Purpose of the Amendment

The Planning Commission initiated this Zoning Text Amendment in response to concerns raised about recent PD applications, such as:

- The scale and intensity of developments proposed under the PD;
- Consistency of new development with the General Plan, Specific Plans, and Zoning Code;
- Limited public participation in the early development of project proposals; and
- Balancing the project requests with potential community benefits

Planned Developments in the Zoning Code

Planned Developments are a zoning and land use tool in the City’s Zoning Code. According to the Zoning Code (Section 17.26 Attachment A), PDs are intended for sites with opportunity to achieve a particular mix of uses, appearance, land use compatibility, or special sensitivity to neighborhood character. Only large sites of two acres or more are eligible for PDs, in order to encourage assembly of properties and holistic development rather than piecemeal

development. Flexibility is provided in order to achieve quality design, encourage variety, and avoid monotony.

Approval of a PD is a legislative act, rather than a quasi-judicial act, meaning that the review authority (City Council, with Planning Commission recommendation) has broad discretion to approve and disapprove proposed projects. A PD includes a Zoning Map Amendment for the site to the “PD” designation, as well the requirement for a “PD Plan” which is essentially the development standards and any conditions of approval that would apply to the PD site. There are currently two required findings for a PD, which are the findings for a Zoning Code/Zoning Map Amendment:

1. *The proposed amendment is in conformance with the goals, policies, and objectives of the General Plan; and*
2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*

Existing Planned Developments

There are 30 existing PDs in the City. Planned Developments have been used for a variety of uses and development projects over the years, with a variety of proposed uses and development types, from townhome developments to commercial and medical offices.

The City currently has three active PD applications, listed in the table below:

Project	Description	Status
PD 38: Lincoln Townhome 1307-1355 Lincoln Ave	New construction of a multi-family residential development, consisting of 59 three-bedroom townhome units located within 13 buildings.	In Process. Applicant redesigning project
PD 39: The Affinity 465-577 S. Arroyo Pkwy	New construction of two seven-story buildings totaling approximately 340,000 square feet for medical office uses, assisted living and independent living uses, and ground floor commercial uses. Included is the ability to exchange medical office uses for up to 197 residential dwelling units. Three existing buildings will be retained.	Planning Commission Recommended Approval (8/24/22) Pending City Council hearing.
PD 40: Throop 444N Fair Oaks and 425 N Raymond Ave	New construction of a 213,826 square-foot mixed-use with 3,000 square feet of commercial space and 206 multi-family units.	Planning Commission Recommended Denial (9/14/22) Pending City Council hearing.

Previous Planning Commission Discussion

July 8, 2021 – Planning Commission Study Session

Staff provided an overview of the Planned Development regulations, including potential modifications to address concerns raised by the Planning Commission. Staff presented three potential modifications to the Planned Development regulations, listed below.

- Expand the required findings for PDs;
- Require a community benefit for PD projects; and
- Require public outreach.

March 9, 2022 – Planning Commission Study Session

Staff provided an overview of the Planned Development regulations as well as the previously presented modifications. Staff also facilitated a discussion on four additional topics the Commission raised at the July 2021 discussion:

- A potential moratorium;
- Lot Assemblages;
- Exceeding the density and FAR identified in the General Plan Land Use Designations; and
- Utilizing density bonus in conjunction with PDs, referred to as “double dipping”.

The potential solution that came out of the discussion included removing General Plan Policy 4.13 and PMC Section 17.26.020.3.c, which allow PD projects with high-quality, contextual design to request a floor area ratio (FAR) or density exceeding the land use designation of the site, up to 3.0 FAR and 87 dwelling units per acre. The Planning Commission also expressed concerns about the interaction between Density Bonus law and PDs, and suggested eliminating the ability for projects to request PDs moving forward.

ANALYSIS:

Modifications to Planned Development Regulations

Staff is presenting potential solutions that address concerns raised by the Commission. The Commission has expressed a preference to require future projects to conform to the City's current regulations, including the Specific Plans that the City is in the process of updating. Below are two potential approaches for modifying the PD regulations:

Approach 1: Prohibit any future Planned Developments

This approach would eliminate the ability for future PD applications to be submitted to the City. The 30 existing PDs would remain in place and would be subject to the same process that is currently in place. The three active PD applications would be processed to their conclusion.

Approach 2: Proposed Modifications to PD Regulations

Alternatively, the Planning Commission could recommend changes to the PD regulations in order to achieve the types of projects that the City wants and could benefit from. This approach would modify existing standards and provides new requirements developed to address concerns heard by the Commission and the community. The recommended amendments are as follows:

- 1) **Expanded Findings.** Staff recommends expanding the findings for a PD in the following ways:
 - a. Add a new finding for sites that are located within a specific plan boundary to require the applicant demonstrate consistency with the Specific Plan vision, goals and policies for PD's located within a Specific Plan.
 - b. Expand the required findings for new PDs (and Revisions) to also include the findings of consistency with the purposes of the PD District, which are listed below and currently required for Renewals (i.e. time extensions). Staff also recommends eliminating the last purpose statement (viii), related to the assembly of properties. The following would be developed into required findings:
 - i. Establish a procedure for the development of large parcels of land in order to reduce or eliminate the rigidity, delays, and inequities that otherwise would result from application of land use regulations and administrative procedures designed primarily for small parcels;
 - ii. Ensure orderly and thorough planning and review procedures that will result in quality urban design;
 - iii. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity;
 - iv. Allow certain types of development consistent with the general plan that can be acceptable at a specific location only under standards significantly more restrictive than those of a base district in which the use is permitted;
 - v. Provide a mechanism whereby the city may authorize desirable developments in conformity with the general plan without inviting speculative rezoning applications that if granted, often could deprive subsequent owners of development opportunities that do not necessarily result in construction of the proposed facilities;
 - vi. Encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those who will directly benefit from it;
 - vii. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended; and
 - viii. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.(staff recommends removal of this purpose statement)

- 2) **Development Agreement with Community Benefits.** Require the project to include a Development Agreement that contains a defined community benefit for all PD's and complies with all other requirements of state law. The community benefit shall include at least one item from the following menu of community benefits, listed below, or other benefits that would be agreed upon with the City and the review authorities. The applicant could propose alternative community benefits if it is demonstrated the project cannot incorporate a benefit from the menu.
 - a. Additional affordable housing (beyond Inclusionary Requirements)
 - b. Publicly accessible parking
 - c. Publicly accessible open space
 - d. Providing portions of space for use for certain community events or meetings
 - e. Adaptive re-use of existing site structures
 - f. Sustainability features as part of the project design (beyond code requirements)

- g. Additional Public Art beyond code requirements. If no art component is required, inclusion of an art component.
- 3) **Public Outreach.** Require additional public outreach, including pre-application outreach, in order to allow community input early in project formation. An applicant would be required to conduct a community outreach meeting prior to submitting an application to the City. Notice of the meeting shall be posted on the site, mailed to all parcels within 1,000 feet of the site and distributed to any known neighborhood associations located within the 1,000-foot project radius (the current radius is 500 feet for the PD application and there is no requirement to include neighborhood associations).
 - 4) **Planning Commission Sub-Committee.** Require that the applicant have an informational meeting with the Planning Commission prior to any public hearings on the project. At this meeting, the Planning Commission will establish a sub-committee to meet with the applicant. The purpose of the sub-committee will be to identify potential areas of concern and provide suggestions prior to a public hearing on the project, including the proposed community benefits.
 - 5) **Remove Increase of Density and Increase of FAR.** Eliminate the ability to exceed the density in the Land Use Designation, up to 3.0 FAR and 87 dwelling units per acre. Projects proposing residential, including mixed-use, as a component are limited to the allowed density in the Zoning Code, or as otherwise permitted by State Law. A non-residential project may request additional FAR up to 25%, not to exceed a total FAR of 3.0.
 - 6) **Height.** A non-residential project may request additional height, up to two-stories, above the height permitted in the Zoning Code. When an applicant is proposing to exceed the maximum height permitted by the Zoning Code, as part of the Advisory Review by the Design Commission they must get preliminary approval for the request prior to a Planning Commission public hearing on the project. The applicant must identify why the height is necessary and how the proposed height is contextually appropriate to the surrounding parcels.
 - 7) **Contiguous Sites.** PD sites must be contiguous and cannot cross a public street.
 - 8) **Site Ownership.** All parcels in PD sites must be owned (or in escrow) by the same entity for two years prior to submittal of an application for the PD.
 - 9) **General Plan Consistency.** If a PD includes areas that have a General Plan Land Use designations of Low Density Residential or Low-Medium Density Residential, those areas shall be developed consistent with the intensities specified in the General Plan and Zoning Code. However, the site area may be used for the overall FAR and Density of the PD. For example, a PD that has five parcels that contain single family homes that is part of the site, can transfer the site area of those five parcels to the other portions of the PD site. In return the single family uses do not change or are replaced with only new single family development.

ENVIRONMENTAL ANALYSIS:


The Zoning Code Amendment has been assessed in accordance with the criteria contained in the CEQA Guidelines, and the Zoning Code Amendment is exempt from the California

Environmental Quality Act (CEQA) under Section 15061(b)(3), the “common sense rule” that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Since the proposed changes are limited to procedures and requirements for Planned Developments and do not pertain to any specific land use permissions or development standards, there is no possibility that the amendments will have a significant effect on the environment.

CONCLUSION AND RECOMMENDATIONS:

Staff Recommends modifying the PD regulations with Approach #2, which would be to modify the regulations that apply to PD applications moving forward. This approach preserves the City’s ability to consider projects that may have unique characteristics, while also assuring that future projects are consistent with the vision and priorities set by the City.

Respectfully Submitted,


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Development

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Attachments:

- Attachment A: Findings
- Attachment B: Zoning Code Section 17.26.020.C – Planned Development District
- Attachment C: Map of Approved Planned Developments