

## MEMORANDUM

**Date:** June 6, 2019  
**To:** Planning Commission  
**From:** Gerald Green AICP, Executive Director  
**Subject:** **Agenda Item 3-A-19-OA**

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Consideration of an amendment to the Knox County Zoning Ordinance that would create a planned development approval process was continued from the Planning Commission's March meeting to the June meeting. The proposed amendment would provide for an approval process that encourages creativity in site design and flexibility in the review of projects, and that provides opportunity for community input. The proposed planned development amendment would establish a process whereby plans for a prospective development project would be submitted, reviewed, and acted upon by the Planning Commission and the County Commission. The process could be followed for projects in any part of the County provided the project property is located within the Planned Growth Area. As part of the review and approval process the Planning Commission could recommend, and the County Commission could approve, waivers of the dimensional standards and the use restrictions imposed by the underlying zoning. Such waivers would be in exchange for enhanced design and/or the provision of public benefits.

The proposed planned development approval process would entail the following steps in the review and approval of requests:

- Required pre-submittal conference with Planning staff;
- Optional conceptual plan review with Planning Commission (public notification and hearing);
- Preliminary plan review and recommendation by Planning Commission; (public notification and hearing)
- Preliminary plan review and approval by County Commission (public notification and hearing); and
- Final plan approval by Planning Commission (public notification and hearing).

The draft amendment proposes a procedure for approval of modifications to the approved plan, with minor modifications subject to approval by staff and major modifications requiring Planning Commission approval.

The proposed planned development approval process provides an alternate route for review and approval of projects that could inspire creativity in design while providing flexibility in the review process. Planning staff recommends approval of the proposed amendment to the Knox County Zoning Ordinance.

If you have any questions, comments, or would like additional information, please feel free to contact me by email at [gerald.green@knoxplanning.org](mailto:gerald.green@knoxplanning.org) or by phone at 215-3758.



**Knox County Zoning Code Amendment  
Planned Development  
06-06-2019  
DRAFT**

**Insert the following as Section 6.80 of the Knox County Zoning Code**

**6.80 – Planned Development Approval**

**6.80.01. Purpose**

Planned developments (PD) are intended to encourage and allow more creative and flexible development of land than is possible under district zoning regulations and should only be applied to further those applications that provide compensating amenities to Knox County. The underlying zoning district dimensional, design, and use regulations apply to a PD unless specifically modified through the approval process. Through the flexibility of the planned development technique, a PD is intended to:

- A.** Encourage flexibility in the development of land and in the design of structures.
- B.** Encourage a creative approach to the use of land that results in better development and design than might otherwise be accomplished under the strict application of other sections of this Code.
- C.** Allow for the design of developments that are architecturally and environmentally innovative, and that achieve better utilization of land than is possible through strict application of standard zoning controls.
- D.** Combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different uses in an innovative and functionally efficient manner.
- E.** Provide for the efficient use of land to facilitate a more effective arrangement of land uses, structures, circulation patterns, and utilities.
- F.** Encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural ecologic conditions.
- G.** Facilitate the implementation of the adopted Knoxville-Knox County General Plan and its component parts, including adopted sector plans, corridor plans, and related documents.

**6.80.03. Initiation**

The entire property proposed for the planned development must be in single ownership or under unified control. All owners of the property must be included as joint applicants on all applications and all approvals will bind all owners.

**6.80.04. Authorization**

- A.** A planned development is authorized in all zoning districts and parcels located in the Planned Growth Area. A planned development is not authorized in the Rural Area.
- B.** A planned development must be granted in accordance with the procedures and standards of this section. Unless waivers of underlying regulations are specifically approved as part of the planned development approval, the requirements of the underlying district apply.
- C.** Planned development approval is separate from subdivision approval. PD approval may be granted first, whereby subdivision approval would be granted subsequently in compliance with the approved lot layout design.

#### **6.80.04. Exceptions From District Regulations**

**A.** A planned development is subject to the underlying district dimensional, design, and use regulations unless an exception is specifically granted. The Knoxville-Knox County Planning Commission may recommend and the Knox County Commission may grant exceptions to the zoning district dimensional, design, and use regulations where a planned development is located.

**B.** Exceptions from district regulations may be granted for planned developments, if the exceptions:

1. Enhance the overall merit of the planned development;
2. Promote the objectives of both Knox County and the development;
3. Enhance the quality of the design of the structures and the site plan;
4. Will not cause adverse impact on neighboring properties;
5. Are compatible with the adopted Knoxville-Knox County General Plan and its component parts, including adopted sector plans, corridor plans, and related documents; and
6. Provide a public benefit to Knox County, as described below.

**C.** The underlying zoning district dimensional, design, and use regulations apply, unless an exception is granted as part of the planned development approval. To be granted such exceptions, the applicant must demonstrate superior design and enhanced amenities. In no case may an exception to district regulations be granted unless the applicant demonstrates a substantial benefit to Knox County. Design characteristics and amenities to be considered in this determination include, but are not limited to, the following:

1. Community gathering spaces and amenities including plazas, public art, formal gardens, places to congregate, and pedestrian and transit facilities.
2. Improvement of existing on-site and off-site infrastructure.
3. Use of sustainable design and architecture, such as green roofs, white roofs and other energy efficient design concepts, new building technologies, and approval of buildings and developments that meet established standards such as Leadership in Energy and Environmental Design (LEED), Energy Star, Earthcraft, etc.
4. Preservation of existing environmental features, including additional protections for steep slopes (15% or more slope).
5. Preservation of historic features and adaptive reuse of existing buildings.
6. New open space and recreational amenities such as recreational open space, including parks and playgrounds, natural water features and conservation areas, jogging trails and fitness courses, dog parks, skate parks, and similar recreational features.
7. Provision of public car and/or bike share facilities
8. Affordable housing set-asides.
9. Senior housing set-asides.

#### **6.80.5. Procedure**

The following procedures, requirements, restrictions, and conditions are required. The approval of a planned development includes a pre-application consultation, optional concept plan review, preliminary plan approval, and final plan approval.

##### **A. Pre-Application Consultation**

1. Prior to formal submittal of an application, a pre-application conference with the Planning staff is required.
2. At a pre-application consultation, the applicant must provide information as to the location of the proposed planned development, the proposed uses, proposed improvements, including the public benefits and amenities, anticipated exceptions to this Code, and any other information necessary to explain the planned development.
3. The purpose of such pre-application consultation is to make advice and assistance available to the applicant before preparation of the concept plan, so that the applicant may determine whether the proposed planned development is in compliance with the provisions of this Code and other applicable regulations, and whether the proposed planned development aligns with the adopted land use policies of Knox County.
4. The pre-application conference does not require formal application, fee, or filing of a planned development application. Any opinions or advice provided by the Planning staff are in no way binding with respect to any official action that may be taken on the subsequent formal application. No decision will be made on the application.

**B. Optional Concept Plan**

Before submitting a formal application for a planned development, the applicant may present a concept plan before the Planning Commission, at his/her option, for the purpose of obtaining information and guidance prior to formal application.

1. The concept plan will be presented at a regular meeting of the Planning Commission. At minimum, the concept plan must consist of the following:
  - a. A map (or maps) in general form containing the proposed land uses, the natural features of the development site, the character and approximate location of all roadways and access drives proposed, the location of all adjacent public streets, public utilities, and schematic drawings showing the size, character, and disposition of buildings on the site.
  - b. A written statement containing a general explanation of the planned development, including a statement of the present ownership of all the land within said development and the expected schedule of construction.
2. The Planning Commission will review the concept plan, and provide such information and guidance it deems appropriate. Any opinions or advice provided by the Planning Commission is in no way binding with respect to any official action the Planning Commission or County Commission may take on the subsequent formal application. The review of the concept plan is not a public hearing. No decision will be made on the application.

**C. Preliminary Plan**

**1. Action by Planning Staff**

An application for a preliminary plan for a planned development must be filed with the Planning staff. Once it is determined that the application is complete, the Planning staff will schedule the application for consideration by the Planning Commission.

**2. Action by Planning Commission**

- a. Upon receipt of a complete application, the Planning Commission will consider the preliminary plan at its regular monthly meeting and shall hold a public hearing to receive comment on the plan.
- b. The Planning Commission will review the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Planning Commission must recommend either approval, approval with conditions and/or modifications, or denial of the preliminary plan.

c. Following the close of the public hearing, the Planning Commission will forward its recommendation to the County Commission.

**3. Action by Knox County Commission**

a. The County Commission will hold a public hearing on the preliminary plan upon receipt of the Planning Commission recommendation, and must approve, approve with conditions and/or modifications, or deny the preliminary plan.

b. The County Commission must finally act upon the application within 120 days of the final decision of the Planning Commission public hearing. Failure to act within 120 days means the application is denied.

**4. Conditions**

The Planning Commission may recommend, and the County Commission may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the planned development as may be deemed necessary for the protection of the public health, safety, and welfare. Such conditions and restrictions must be reflected in the final plan.

**5. Approval Standards**

The recommendation of the Planning Commission and decision of the County Commission must make a finding that the following standards for a planned development have been met.

a. The proposed planned development meets the purpose of a planned development.

b. The proposed planned development will not be injurious to the use and enjoyment of other property in the vicinity.

c. The proposed planned development will not impede the normal and orderly development and improvement of surrounding property.

d. There is provision for adequate utilities and infrastructure, drainage, off-street parking and loading, pedestrian access, and all other necessary facilities.

e. There is provision for adequate vehicular ingress and egress designed to minimize traffic congestion upon public streets. The Planning Commission and/or County Commission may require a traffic study to provide evidence that the circulation system is adequate.

f. The location and arrangement of structures, parking areas, walks, landscape, lighting, and other site design elements, and the uses are compatible with the surrounding neighborhood and adjacent land uses.

**6. Expiration**

a. The preliminary plan approval expires if a complete application for approval of a final plan has not been filed within three years after the date the Knox County Commission grants preliminary plan approval. As part of the County Commission approval of the preliminary plan, the County Commission may extend this period of time by granting an extension of up to an additional two years. The County Commission also may extend this period of validity through approval of a phasing plan where the validity period is longer than three years for the PD.

b. An extension of this three year period may also be granted by the Knox County Commission if the applicant requests an extension in writing prior to the expiration date of the approval. A public hearing for an extension of time of a preliminary plan is not required.

**D. Final Plan**

Following the approval of the preliminary plan, an application for a final plan for a planned development must be filed with the Planning staff.

**1. Action by Planning Staff**

The Planning staff will review the final plan upon receipt of the complete final plan application and take the following action:

a. If the final plan is in substantial compliance with the approved preliminary plan, the Planning staff will recommend approval of the final plan to the Planning Commission. The Planning staff will certify to the Planning Commission that the final plan is in substantial conformance with the previously filed preliminary plan.

b. If the final plan is not in substantial conformance with the approved preliminary plan, the Planning staff must inform the applicant as to specific areas found not to be in compliance, and the applicant must resubmit the final plan to the Planning staff with changes to those areas found not to be in substantial compliance and the validity of the preliminary plan remains in effect. If the revised final plan remains noncompliant with the preliminary plan, the applicant may request that the Planning staff render a decision to be forwarded to the Planning Commission. In such case, the Planning staff will recommend to the Planning Commission that the final plan be denied. If denied, the applicant may reapply by submitting a new preliminary plan.

## **2. Action by Planning Commission**

Upon receipt of the Planning staff recommendation, the Planning Commission must review the final plan. The Planning Commission must approve or deny the final plan at a regularly scheduled meeting. If denied, the applicant may reapply by submitting a new final plan and the validity of the preliminary plan remains in effect.

## **3. Effect of Approval**

After final plan approval, the final plan will constitute the development regulations applicable to the subject property. The planned development must be developed in accordance with the final plan, rather than the zoning district regulations otherwise applicable to the property. Violation of any condition is a violation of this Code and constitutes grounds for revocation of all approvals granted for the planned development.

## **4. Expiration**

a. The final plan approval expires if a building permit has not been issued within three years after the date of final plan approval. As part of the Planning Commission approval of the final plan, the Planning Commission may extend this period of time including approval of a phasing plan where the validity period is longer than three years for the planned development.

b. An extension of this three year validity period may be granted by the Planning Commission prior to the expiration date of the approval if the applicant requests an extension in writing prior to the expiration date of the approval. The validity period for the final plan cannot be extended for a period greater than three years. Consideration of a request for extension of the validity period will be at a public hearing.

### **6.80.6. Modifications to Approved Final Plans**

No adjustments may be made to the approved final plan, except upon application to the Planning Commission in accordance with the following.

#### **A. Minor Modifications**

The Planning staff may approve the following minor modifications to an approved final plan when it is determined by the Planning staff that such changes are in general conformance with the approved final plan. Any changes considered a major modification, as defined in this section, cannot be approved as a minor modification. The Planning staff may choose to classify a modification that meets the criteria of this section as a major modification to be approved by the Planning Commission. When calculating percentages, all fractions are rounded up to the nearest whole number.

- 1.** An increase or decrease in building height of up to 10%.

2. An increase or decrease in building coverage up to 10%.
3. A change of in the location of walkways, vehicle circulation ways, and parking areas over ten (10) and up to twenty (20) feet.
4. An increase or decrease in the number of parking spaces of up to ten parking spaces.
5. A change to the landscape plan that results in a reduction of plant material but does not violate the landscape requirements of this Code and any conditions of the final plan approval.
6. Altering any final grade by no more than 20% of the originally planned grade.

**B. Major Modifications**

1. The Planning Commission may approve any other changes to an approved final plan that do not qualify as a minor modification. In addition, any of the following are considered major modifications:
  - a. Any request for an extension of time of the approved final plan.
  - b. Changes to any conditions imposed as part of the approved final plan.
  - c. Reductions or alterations in the approved public benefit and amenities to be provided.
  - d. Any development action that does not comply with zoning district regulations.
2. All major modifications to the final plan must be approved by the Planning Commission. Public notice of the Planning Commission meeting at which a request for a minor modification is to be considered is required. The Planning Commission may only approve changes to the final plan if they find such changes are in general conformance with the approved final plan, necessary for the continued successful functioning of the planned development, respond to changes in conditions that have occurred since the final plan was approved, and/or respond to changes in adopted City land use policies.
3. Upon review of the proposed major modifications, the Planning Commission may determine that the proposed modifications constitute a new planned development and the final plan must be resubmitted as a preliminary plan and follow the procedures of approval in this Section.

**6.80.7. Appeal**

**A. Preliminary Plan**

Anyone aggrieved by a final order or judgement of the Knox County Commission on a preliminary plan may have such order or judgement reviewed by the courts as provided by law.

**B. Final Plan**

Planning Commission decisions on final plans may be appealed to the County Commission.

Planned Development Approval and Planned Residential Zone Comparison

<u>Item</u>	<u>PDA</u>	<u>PRZ</u>
Requires rezoning of property	No	Yes
Allows range of residential and non-residential uses	Yes	No <sup>1</sup>
One approval process	Yes	No
Two approval processes	No	Yes <sup>2</sup>
Public hearing(s) required	Yes	Yes
Pre-submittal meeting with Planning staff required	Yes	No
Requires development to meet community goals	Yes	No
Allows County Commission to waive the use restrictions and dimensional standards of the underlying zoning district	Yes <sup>3</sup>	No
Density limitation for residential development	No <sup>4</sup>	Yes
Allows for protection of sensitive natural areas	Yes	Yes
Development plan to be submitted and approved	Yes	Yes <sup>5</sup>
Applicable throughout County	No <sup>6</sup>	Yes <sup>7</sup>
LALA		

1. Developments of more than 20 acres may have 1 acre of commercial uses for each 100 units
2. Requires rezoning followed by use on review (concept plan) approval
3. Planning Commission recommends and County Commission approves
4. Underlying density standard can be waived
5. As part of use on review approval following rezoning
6. As proposed, must be located in the Planned Growth Area
7. Can be located anywhere, but subject to density limitations of Growth Plan/Sector Plan

