



MEMORANDUM

Date: October 29, 2019
To: Planning Commission
From: Gerald Green AICP, Executive Director
Subject: **Agenda Item 3-A-19-OA**

The Planning Commission recommended adoption of an amendment to the Knox County Zoning Ordinance that would create a planned development approval process at the Commission's August meeting. At the proposed amendment's second reading by the County Commission it was remanded to the Planning Commission to address community comments received just prior to the County Commission's meeting. Working with a committee composed of community members, Planning Commissioners, County staff, and Planning staff, the draft ordinance was revised to address the comments received from the community.

The revised ordinance is attached, with the latest revisions noted in red font. One comment from County staff not reflected in the revised draft is a suggestion that the planned development approval process be permitted in all parts of the County including the designated rural area. As the limitation on planned developments prohibiting them in the designated rural area was directed by the Planning Commission, I did not want to make this revision without your input. This revision was not discussed by the stakeholder committee as the comment was received late. The direction of the Planning Commission on this issue is requested.

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, exceptions to the dimensional standards and the use restrictions imposed by the underlying zoning. Such exceptions 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 and Engineering & Public Works staff;
- Mandatory 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 and Engineering & Public Works staff (staff decision can be appealed to Planning Commission).

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.

One issue raised by County legal staff was whether approval of the preliminary plan for planned developments should be delegated to the County Commission or the Board of Zoning Appeals, given that exceptions to the zoning district's use and dimensional standards could be granted. The recommendation of the stakeholder committee is that the approval of the preliminary plan be delegated to the County Commission. The committee was of the opinion that the County Commission is better able to deal with projects that may have broader community impact than the BZA, which typically deals with issues on an individual property basis. Sam Edwards, the land use attorney who recently provided some continuing education for the Commission, was asked to provide an opinion on the approval process for exceptions proposed in the draft ordinance. Mr. Edwards is of the opinion that the proposed process is appropriate. A provision has been added to the draft amendment specifically authorizing the County Commission to grant exceptions to the underlying use and dimensional standards of a zoning district for planned developments to address any potential uses.

Planning staff recommends approval of the proposed amendment to the Knox County Zoning Ordinance, with discussion and direction regarding limiting planned developments to the Planned Growth area.

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

**Knox County Zoning Code Amendment
Planned Development
10-29-2019
DRAFT**

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

6.80 – Planned Development Approval

6.80.01. Authority Delegated to County Commission

The County Commission of Knox County is hereby delegated the authority to grant exceptions to the use and dimensional standards of the zoning district in which a proposed plan development is to be located, in accordance with the procedures set forth below.

6.80.02. Purpose

The Planned Development approval process provides an optional process for approval of projects that may not fit within the bounds of the standard zoning districts established by this Code. 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 be applied to further those applications that provide compensating amenities to Knox County. In return, the Planned Development provisions require a high standard for the protection and preservation of environmentally sensitive lands, well planned living, working, and shopping environments, and an assurance of adequate and timely provision of essential utilities and streets. Plans submitted for approval as provided for by this process must demonstrate a creative approach to the design of the project and the development of the property. The design team shall be capable of presenting a creative project that will deliver significant community benefits. 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.
- H. Encourage land use that benefits the surrounding community and is compatible with existing and planned uses of the surrounding area.

6.80.02. 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 shall bind all owners.

The Planning Commission or the Knox County Commission may also initiate a Planned Development proposal.

6.80.03. 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 shall be a minimum of ten (10) acres. The calculation of acreage shall exclude area(s) covered with permanent bodies of water (lakes, rivers, streams), excluding farm ponds.
- C.** A planned development approval 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.
- D.** 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 provide any all of, ~~but not limited to~~ the following benefits:
 - 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 excessive adverse impact on neighboring properties;
 - 5. Further the goals of 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 the Knox County community. Planned developments shall demonstrate significant benefits to the community, as identified and validated during the review of the project. 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 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 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 useable recreational open space, including parks and playgrounds, natural water features and conservation areas, walking trails, dog parks, and similar recreational features, which may be open to the public.
7. Affordable housing set-asides provided that the affordable housing meets the standards for affordability such that the cost of the housing does not exceed 30% of the Knox County median income.
8. Senior housing set-asides.
9. Land set-aside for public facilities such as schools, libraries, emergency services, etc.

D. Exceptions to the underlying dimensional and design standards of this ordinance must equal or exceed the standard objectives of this ordinance, and not impair the reasonable long-term use of other properties in fulfillment of the land use goals and policies of the Knox County General Plan. Alternate dimensional and design standards may be approved for a Planned Development in lieu of the following standards as set forth in this ordinance:

1. Setback and building height standards
2. Street setback standards
3. Lot size standards
4. Landscape buffer standards

Approval of alternate dimensional and design standards for portions of a Planned Development located along the perimeter (periphery) of a Planned Development shall assure compatibility with the abutting land use and provide for a reasonable transition between intensity of development and types of land use.

E. Exceptions to underlying zoning use regulations may be approved provided the approval of the preliminary plan is based upon a finding that the proposed land uses are arranged and designed in a manner that does not unreasonably impair the long term use, as established by the Knox County General Plan, of properties adjoining the planned development. In making a request for an exception to the underlying zoning use regulations, the applicant(s) for a Planned Development approval shall identify the exceptions requested and provide a justification for each exception. In approving an exception to the underlying zoning use regulations, the County Commission shall identify the justification for such approval. The approval by the County Commission of an exception to the underlying zoning use regulations may constitute an amendment to the Sector Plan for the area in which the Planned Development is proposed.

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 meeting with the Knoxville-Knox County Planning and Knox County Engineering and Public Works staff is required.
2. At a pre-application meeting, the applicant shall 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 meeting 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 meeting 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 shall 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 plan (or plans) 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, landscape and buffer area, and approaches to be employed for stormwater management.
 - 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.
3. Mailed and posted notice is required for the meeting at which the concept plan is to be presented.

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.

c. If exceptions to the dimensional, design, or use standards of the underlying zone are granted by the County Commission, the justification for the exceptions shall be stated.

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. In this case, adequate shall mean capable of meeting the identified needs of the proposed development.

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. There is provision of utilities and drainage of adequate capacity to serve the proposed development based upon the preliminary plan. The plan shall provide a preliminary identification of any proposed improvements to existing streets, off-site utility systems or the drainage network considered necessary to support the proposed scope of development, with intended assignments of responsibility for providing those improvements.

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.

g. One or more of the following design professionals shall certify direct involvement in the preparation of the preliminary plan: architect, civil engineer, landscape architect, urban planner.

h. Full identification, description and supporting rationale for any proposed exception from the underlying zoning district design, dimensional, and/or use standards.

i. The proposed planned development is designed in a manner that affords an opportunity for eventual implementation of the Knoxville-Knox County Park, Recreation and Greenways Plan. The preliminary plan shall take all reasonable measures to protect the visual and

operational integrity of an existing or proposed greenway corridor by means of sensitive orientation and placement of improvements to the land, and the protection of mature vegetation and natural land forms.

j. All reasonable measures shall be taken to incorporate known features of historical and/or archaeological significance into the design and development of a planned development in a manner that contributes to the protection and preservation of those features. Historical shall mean the property is located within a locally designated historic district, is identified as an individually designated local historic property, is listed on the National Register of Historic Properties, or is listed on the Knox County Survey of Historic Properties.

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 Planned Development.

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 and Knox County Engineering and Public Works 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 approve the final plan. The Planning staff shall certify 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 by the Planning Commission, the applicant may reapply by submitting a new preliminary plan.

2. 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.

3. 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 staff approval of the final plan,

the Planning Commission may approve a phasing plan where the validity period is longer than three years for the planned development. The phasing plan must be presented as part of the preliminary plan submittal and approved as part of the preliminary plan approval

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 and Knox County Engineering & Public Works staff may approve the following minor modifications to an approved final plan when it is determined by the Planning and Knox County Engineering & Public Works 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 and Knox County Engineering & Public Works 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 internal location of walkways, vehicle circulation ways, and parking areas over ten (10) feet and up to twenty (20) feet provided the locations of access point connections to public roads and rights-of-way are not changed.
4. An increase or decrease in the number of parking spaces of up to ten (10) percent of the 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% 50% 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 major 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~~ **County** 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 staff decisions on final plans may be appealed to the Planning Commission.