

## **Chapter 1720. Appendix 2: O-PED, Pre-existing Development Overlay**

REGULATIONS GOVERNING PLANNED DEVELOPMENT AND CONDITIONAL USE DISTRICTS APPROVED PRIOR TO DECEMBER 30, 2008. ALL SUCH PLANNED DEVELOPMENTS SHALL BE IDENTIFIED ON THE OFFICIAL ZONING MAP WITH THE PRE-EXISTING DEVELOPMENT OVERLAY.

### **O-PED -1-Planned Unit Developments**

#### **A. Planned Unit Development Districts Established.**

The purpose of the P.U.D. district is to allow creative and harmonious mixtures of land uses, which are well planned and complimentary to each other. A mixed-use development taking place within a P.U.D. zoning district would eliminate the necessity of rezoning the underlying parcels to the various districts allowing such uses. Given that a variety of uses may be developed with a P.U.D. and to ensure that such uses are developed harmoniously with each other and with surrounding land uses, the initial approval of a development within a P.U.D. shall require a special use permit. The minimum gross area for a P.U.D. development containing solely residential uses shall be twenty-five acres; for developments containing residential and non-residential uses, a minimum of a hundred contiguous acres shall be required outside of the Downtown Overlay. Development within a P.U.D. district shall require the use of stormwater detention as noted in Chapter 7 of the Indian Trail Storm Water Manual, to control the runoff to downstream properties. To encourage sustainable high quality development with conservation of natural and cultural features exception of setbacks as provided for in Section 141 may be approved by the Town Council on a case by case basis in conjunction with a Special Use Permit for a Planned Unit Development.

1. There are hereby established twenty different planned unit development (P.U.D.) districts as described in this section. Each P.U.D. district is designed to combine the characteristics of at least three up to four zoning districts.
2. One element of each P.U.D. district, excluding the Downtown Overlay District, shall be the medium density residential element. Here there are two possibilities, each one corresponding either to the R-20 or R-20 cluster residential districts. Within that portion of the P.U.D. zone that is developed for medium density residential purposes, all development must be in accordance with the regulations applicable to the medium density residential district to which the particular P.U.D. zoning district corresponds (except that planned residential developments shall not be permissible).
3. A second element of each P.U.D. district shall be the higher density residential element. Here there are two possibilities, each one corresponding either to the R-8 or R-6 zoning districts described in Section 116 and Section 144. Within that portion of the P.U.D. district that is developed for higher density residential purposes, all development must be in accordance with the regulations applicable to the higher density residential district to which the P.U.D. district corresponds. Except as to lot size provided in clusters as described in Section 144.
4. A third element of each P.U.D. district shall be the commercial element. Here there are three possibilities, each one corresponding either to the B-2, B-3 or Office district identified in Section 98. Within that portion of a P.U.D. district that is developed for purposes permissible in a commercial district, all development must be in accordance with the regulations applicable to the commercial district to which the P.U.D. district corresponds.

5. A manufacturing/processing element may be a fourth element of any P.U.D. district. Here there are two alternatives. The first is that uses permitted within the L-I district would be permitted within the P.U.D. district. The second alternative is that uses permitted only within the H-C zoning districts would not be permitted. If an L-I element is included, then within that portion of the P.U.D district that is developed for purposes permissible in an L-I district, all development must be in accordance with the regulations applicable to the L-I district.

**B. P.U.D. Designations**

In accordance with the description set forth in subsection (a), the twenty P.U.D. districts shall carry the following designations to indicate their component elements:

1. R-20 / R-8 / B-2 / LI
2. R-20 / R-8 / B-2
3. R-20 / R-8 / Office / LI
4. R-20 / R-8 / Office
5. R-20 / R-6 / B-2 / LI
6. R-20 / R-6 / B-2
7. R-20 / R-6 / Office / LI
8. R-20 / R-6 / Office
9. R-20 (Cluster) /R-8 / B-2 / LI
10. R-20 (Cluster) / R-8 / B-2
11. R-20 (Cluster) / R-8 / Office / LI
12. R-20 (Cluster) / R-8 / Office
13. R-20 (Cluster) / R-6 /R-8 /Office/B-2/B-3
14. R-20 (Cluster) / R-6 / B-2
15. R-20 (Cluster) / R-6 / Office / LI
16. R-20 (Cluster) / R-6 / Office
17. R-20 (Cluster) /R-8/R-6
18. R-20 (Cluster) / R-6 (Cluster)/ R-8(Cluster)/Office/B-2/B-3/B-4
19. R-6(Cluster), R-6, B-2 only in association with Section 137E
20. Downtown Overlay District- Mixed Use

1. No area of less than twenty-five contiguous acres may be zoned as a P.U.D. district, and then only upon the request of the owner or owners of all the property intended to be covered by such zone.
2. As indicated in the Table of Permissible Uses (Section 106 and 103.5), a planned unit development is the only permissible use of a P.U.D. zone and planned unit developments are permissible only in such zones.
3. Planned unit developments are subject to the requirements set forth in Section 116.

### **C. Planned Unit Developments.**

1. In a planned unit development, the developer may make use of the land for any purpose authorized in a particular P.U.D. zoning district in which the land is located, subject to the provisions of this ordinance. Section 100 describes the various types of P.U.D. zoning districts.
2. Within any lot developed as a planned unit development (excluding within the Downtown Overlay District), not more than thirty-five percent of the total lot area may be developed for higher density residential purposes (R-8 or R-6, or cluster as applicable), not more than ten percent of the total lot area may be developed for purposes that are permissible only in a B-2 or H-C zoning district (whichever corresponds to the P.U.D. zoning district in question), and not more than five percent of the total lot area may be developed for uses permissible only in the LI zoning district (assuming the P.U.D. zoning district allows such uses at all).
3. The plans for the proposed planned unit development shall indicate the particular portions of the lot that the developer intends to develop for higher density residential purposes, lower density residential purposes, purposes permissible in a commercial district (as applicable), and purposes permissible only in an LI district (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the lot so designated shall then be treated as if it were a separate district, zoned to permit, respectively, higher density residential (R-8 or /R-6), lower density residential (R-20), commercial office or LI uses. However, only one permit--a planned unit development permit--shall be issued for the entire development.
4. A planned unit development permit may be approved showing one or more portions of the tract as reserved for future development of a specified type (e.g. residential, commercial, or manufacturing). In such a case, no construction of any land may take place within such areas until the development permit is amended to approve specific plans for such areas. Such an amendment shall be regarded as a major amendment and processed as provided in Subsection 64(c).

5. The nonresidential portions of any planned unit development may be occupied only in accordance with a schedule approved by the planning board that relates occupancy of such non-residential portions of the PUD to the completion of a specified percentage or specified number of phases or sections of the residential portions of the development. The purpose and intent of this provision is to ensure that the planned unit development procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential development. In approving a proposed schedule, the planning board may consider, among other factors, the number of dwelling units proposed for the residential portion of the PUD, the nature and scope of the nonresidential portions of the PUD, the physical relationship of the nonresidential components of the PUD to neighboring properties not within the PUD, and whether the nonresidential uses are to be located within pre-existing buildings or new construction.
6. All of the common open space required under this Section shall be either conveyed to the Town of Indian Trail, if the Town agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator, thereof; and
7. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning and Development Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before recording of the Final Plat by the Planning and Development Director, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local, taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities.
8. Associated with the selection of a Planned Unit Development is the requirement for stormwater detention. The use of high density residential and mixed uses increases the stormwater runoff to a degree that necessitates controls to prevent release of stormwater at a rate greater than the runoff of the tract prior to development.

#### **0-PED-2 -Planned Residential Developments.**

- A. Planned residential developments (P.R.D.'s) are permissible only on tracts of at least five acres located within the R-20, R-8 and R-6 zoning districts. The minimum average lot sized allowed for a PRD is:
  9. The R-20 minimum average standard lot size is 15,000 square feet with no reduction to less than 7,500 square feet.
  10. The R-8 minimum average standard lot size is 7000 square feet with no reduction to less than 6,000.

**11.** The R-6 minimum average standard lot size is 5,000 square feet with no reduction less than 4,500.

- D.** For the development to remain harmonious with surrounding development exterior lots must be at least 15,000 square feet in the R-20 and 7,000 in the R-8, and 5,000 square feet in the R-6 with standard exterior lot line. There shall not be less than twenty-five (25) feet of common open space between an interior lot line within the subdivision and an exterior lot line located outside the subdivision. The purpose of this district is to allow flexible development with denser lots interior to the development itself.
- E.** A R-8 or R-6 P.R.D. shall only be permitted to be located:
  - 1.** within the Downtown Overlay District; or
  - 2.** within a half-mile radius of a commercial center defined as: A group of commercial establishments, planned, developed, and managed as a unit, with off-street parking provided on the property, and having at least one anchor tenant with a minimum of 30,000 square feet of space.
  - 3.** A minimum of 75% of the property's lot area shall be located within the said ½ mile radius area to qualify for a PRD Development.
- F.** The overall density of a tract developed as a P.R.D. shall be determined as provided in Section 139.

Zoning District	Maximum Density (Units/Acre)
R-20	2.2
R-8	5.4
R-6	7.2

- G.** Permissible types of residential uses within a P.R.D. include single-family detached dwellings (use classification 1.111) in all district, two-family residences (1.200) and multi-family residences (1.300) only in the R-20 district. At least fifty percent of the total number of dwelling units must be single-family detached within the R-20.
- H.** To the extent practicable, the two-family and multi-family portions of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties.
- I.** In a planned residential development, the screening requirements that would normally apply where two-family or multi-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development, but all screening requirements shall apply between the tract so developed and adjacent lots.
- J.** Planned residential development, as a minimum, shall meet each of the following criteria:
  - 1.** Curb and gutter on all interior streets shall be provided.

2. Each dwelling unit shall have a minimum parking pad width of sixteen (16) feet by thirty-two (32) feet to accommodate two automobiles parked side-by-side.
3. Usable common open space or recreational areas shall be provided within the PRD. Any common open space area shall have a minimum area of ten-thousand (10,000) square feet. All common open space areas shall be accessible by sidewalk from the residential developed portions of the PRD.
4. Irrespective of other provisions contained in this Ordinance, sidewalks shall be provided on at least one side of each street within the PRD. Furthermore, sidewalks and curb & gutter shall be required along the street frontage of which said property is located off of. If said property is located off more than one street, sidewalks and curb & gutter shall be required along all street frontages.
5. All of the common open space required under this Section shall be either conveyed to the Town of Indian Trail, if the Town agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator, thereof; and
6. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning and Development Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before recording of the Final Plat by the Planning and Development Director, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local, taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities.

**K.** Yard and setback requirements for a PRD shall be as follows:

Zoning District	Yard Requirements
R-20	Front Yard (Interior)-Twenty-five (25) feet Side Yard (Interior)-Eight (8) feet, eighteen (18) on corner lots. Rear Yard-Twenty-five (25)
R-8	Front Yard (Interior)-Twenty (20) feet Side Yard (Interior)-Five (5) feet Rear Yard-Twelve and one-half (12.5) feet
R-6	Front Yard (Interior) – Twenty (20) feet Side Yard (Interior) – Five (5) feet Rear Yard – Twelve and one-half (12.5) feet

- L. A minimum forty (40) foot yard shall be required, around the exterior of any multi-family portion of the PRD which abuts a R-20 Residential (R) zoning district.

### **O-PED-3- Planned Neighborhood Development**

#### **A. Intent:**

The Planned Neighborhood (PND) is coded to allow more flexible development that promotes a traditional neighborhood character. This code is established so that streams, floodplains, farmlands, and forests may be preserved while adding to the quality of the community. The architectural guidelines stated in this section are established to promote pedestrian friendly streetscape with higher quality housing standards, and to encourage a variety of housing types that will add character to the community. In evaluating a proposed PND it is the intent of this type of development to be an upgrade to the surrounding area.

**M.** Town Council shall determine the density by the approval of the Special Use Permit on a case by case basis but in no event shall density exceed more than 2.2 units to the acre. The developer may use the land for any authorized residential use in a PND classification. Portions of a development which abut other properties will be similar in character. Active and/or passive recreation must be detailed in the open space design submitted with the Special Use Permit Application.

**N.** Uses permitted: Permissible types of Residential uses with a PND include single-family detached dwellings (use classifications 1.111) as follows:

- 1.** The low density element of the PND shall be made up of R-20(cluster) lots from 20,000 to 15,000 square feet (at least 70%), and R-20 (cluster) lots from 15,000 to 10,000 square feet (no more than 30%). The lots abutting the entrance road frontage (including all entrances and accesses into the development) will be required to be 20,000 square foot lots which are not included in the percentages. The exterior lots of the development will be a minimum of 10,000 square foot with R-20 (20,000 square foot lots) as the largest lot standard required. Open space can not be used as a method of making exterior lots into interior lots or altering larger lot required along road frontage.
- 2.** The medium density residential element of the PND shall be made up of R-20(cluster)lots from 20,000 to 15,000 square feet (at least 60%)and R-20 (cluster) lots from 15,000 to 10,000 square feet(no more than 30%) and R-8 lots (no more than 20%). The lots abutting the entrance road frontage (including all entrances and accesses into the development) will be required to be 20,000 square foot lots which are not included in the percentages. The exterior lots of the development will be a minimum of 10,000 square foot required to be the same size as abutting lots with R-20 (20,000 square foot lots) as the largest lot standard required. Open space can not be used as a method of making exterior lots into interior lots.
- 3.** Yard and setback requirements for a PND shall be as follows: Front Yard(interior lots)- twenty feet, Side yard (interior lots)- five feet ( exterior and corner lots)- 12 feet, Rear Yard ( interior lots)- 20 feet (exterior lots)-25 feet.

#### **O. General Provisions:**

In a planned neighborhood district, the screening requirements that would normally apply where two-family or multi-family development shall not apply within the tract developed as a planned neighborhood development, but all screening requirements shall apply between the tract developed and the adjacent lots. A planned neighborhood development, as a minimum, shall meet each of the following criteria:

- 1.** Curb and gutter on all interior streets shall be provided.

2. A planted strip of at least 24 inches shall be placed between the street curb and sidewalk. Trees or planting shall be behind the sidewalk.
3. Each single-family dwelling unit shall have a minimum parking pad width of sixteen feet by thirty-two feet. To accommodate two automobiles parked side by side.
4. Usable common open space or recreational areas shall be provided within the PND. Any common open space area shall have a minimum area of ten thousand square feet. All common open space areas shall be accessible by sidewalk from the residential developed portions of the PND.
5. Irrespective of other provisions contained in this ordinance, sidewalks shall be provided on at least one side of each street within the PND.
6. All of the common open space required under this section shall be either conveyed to the Town of Indian Trail, if the Town agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator thereof; and
7. any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning and Development Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before recording of the Final Plat by the Planning and Development Director, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continuous maintenance of any common open space and recreational facilities.

## **O-PED 4-Conditional Use Districts : Parallel Conditional Use Districts**

### **A. Purpose:**

The conditional rezoning process allows particular uses to be established, but only in accordance with specific development projects. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and/or on the entire community which cannot be predetermined and controlled by general zoning district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations and other plans for the physical development of the Town as adopted by the Town Council. The review process established herein provides for the accommodation of such uses by a re-classification of property into a "parallel conditional use" district.

The "parallel conditional use" district (CUD) approval process is established to address those situations when a particular use may be acceptable but the general zoning districts which

would allow that use would not be acceptable. Such zones may be approved or changed only by the Town Council in accordance with the regulations contained herein.

**P. Process:**

In order for a property owner to secure privileges for developing property under the parallel special use process, a two-step process must be followed. The property must first be rezoned by the Town Council to a parallel conditional use district. The Town Council must then approve a conditional use permit which may contain fair and reasonable conditions to assure conformance with this Ordinance, other plans adopted by the Town Council and compatibility with surrounding properties. Any use permitted under this process must also, as a minimum, conform to the development regulations for the corresponding general zoning district. Thus, if a property were rezoned to a "CUD B-4" Conditional use district, and a conditional use permit approved authorizing the development of a particular use, that use must (1) be a use allowed in the B-4 district, (2) meet all dimensional, screening and related requirements of the B-4 district, (3) meet any listed supplemental requirements for that particular use in the B-4 zoning district, and (4) meet any additional requirements placed by the Town Council on the conditional use permit.

1. Rezoning of property to any CUD parallel conditional use district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for a tentative proposal which may be undertaken at some unknown time in the future.
2. In order for a property owner to secure development privileges in accordance with these regulations, the Town Council must first rezone said property to a particular CUD district and then must issue a conditional use permit allowing the particular development to take place.
3. Unlike requests for rezoning to a general zoning district, applications for CUD zoning (and associated approval for a conditional use permit) may only be filed by the owner of the property (ies) in question or the owner's authorized agent.