

### **Drafting Notes:**

1. *The tracked changes in this document reflect any changes from the draft reviewed by the Planning Commission in September and October of 2024.*
2. *CMI has been directed to add the procedural requirements and definitions to the draft PD ordinance. This PD section will replace the current Section 17.72. Sections were renumbered in this final draft since this will be adopted as part of the current code organization. The PD ordinance will eventually proceed with the adoption of a replacement Title 17 with major changes in organization.*
3. *As directed by the Planning Commission certain requirements regarding required open space, conformance with the adopted Comprehensive Plan (NKA Community Master Plan), and conformance with the Hillside Overlay District (currently 17.68) remain in place.*
4. *Also note that in Article 3- General Development Standards, the parking and loading standards will be updated, including the option for in-lieu fees. Loading requirements will be added for all non-residential uses and any residential development with over 25,000 sq. ft.*
5. *Capitalization shall be per MuniCode and what is currently adopted; once all new Articles and Titles are reviewed by the MuniCode consistent formatting of capitalization of terms will be completed. For example, currently, the names of Boards and Commissions are not capitalized.*
6. *Grammatical corrections were not tracked. (For example, change 'in order to' simplified to 'to'; punctuation corrected; change 'which' to 'that'; change 'chapter' to 'section'.)*
7. *Items in orange colored text were added by the Town Attorney or DRT members upon review by the DRT on a Teams meeting call on November 22, 2024. Note the most substantial change to the text by the Town Attorney is the following insertion: "unless, after receiving a recommendation from the Planning Commission, the Board of Trustees finds on specifically articulated grounds, that it is in the best interest of the Town and in the interest of the public health, safety, and welfare to approve a PD that does not substantially conform to the Community Master Plan." Under Colorado statute, the Comprehensive Plan is considered advisory and a guide and is not binding, unless specifically made so by the Town (CRS 31-23-206), and is the basis for regulatory action.*

## 17.72 Planned Development District.

### 17.72.010. Intent and Purpose

- (a) Intent. The intent of the Planned Development (PD) district is to promote and improve the health, safety, and general welfare of the residents of the Town by allowing the negotiation of a specialized zoning district that accommodates innovative patterns of development. This district is intended to be used only when no district in this Code, and no combination of districts, can be used to approve a new development that provides substantial additional benefits to the Town that would not otherwise be required by this Code. Nor is it intended to be used to approve variations from the standards and criteria in this Code. Since the Planned Development accommodates innovative patterns of development, development standards, dimensional requirements, and permitted uses are negotiated and shall be allowed as set forth in the Planned Development Plan (PDP) and Final Development Plan (FDP). Significant additional benefits to the Town must be demonstrated. This chapter is to implement the provisions of the Planned Unit Development Act of 1972 (C.R.S. § 24-67-101 et seq.) **as amended**.
- (b) The purpose of the Planned Development (PD) district is:
- (1) To encourage a unified approach to planning, design, and development of land that is consistent with the **adopted Community Master Plan of the Town**, including the goals and objectives, **future land use plan, and three-mile annexation plan**.
  - (2) To encourage flexibility, innovation of quality design, and a variety of development types to promote the most suitable and appropriate use of a site.
  - (3) To facilitate the adequate and efficient provision of streets, utilities, and municipal services.
  - (4) To achieve a compatible land use relationship with the surrounding area and existing development.**
  - (5) To preserve the unique, natural, scenic, historical, and cultural features of a site.
  - (6) To encourage energy efficiency and conservation of energy and natural resources.
  - (7) To provide for usable open space and recreational areas in new development.
  - (8) To permit a developer to propose an ~~total~~ overall planned development plan which can be considered as to its ~~overall~~ merits under a unified development plan that may or may not be developed in phases through the submittal of a Final Development Plan.**
- (c) The planning commission and the board of trustees shall consider the purposes of this Section in approving or denying any requests for a planned development district and in the review of a planned development plan.

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### **17.72.020 Effective Date and Establishment of a Planned Development District (PD).**

- (a) This Section shall apply to and govern all PD applications submitted after the effective date hereof that relate to and include lands located within the legal boundaries of the town. The provisions of this section may also be applied to PD applications for lands that are located outside of the town but which are proposed to be annexed to the town, as permitted by Section 31-12-115, C.R.S., as may be amended.
- (b) Conformance with the adopted Community Master Plan. No PD shall be recommended by the planning commission or approved by the board of trustees unless the PD is found to be in substantial conformance with the adopted Community Master Plan **unless, after receiving a recommendation from the Planning Commission, the Board of Trustees finds on specifically articulated grounds, that it is in the best interest of the Town and in the interest of the public health, safety, and welfare to approve a PD that does not substantially conform to the Community Master Plan.**
- (c) The establishment of any PD shall include coordination with **all adopted codes and regulations including but not limited to the Town's adopted Public Works Standards as may be amended, MS4 requirements, the adopted PPRBD building codes,** and the vesting of the PD zone designation.
- (d) A planned development district may be established upon any tract of land that is five (5) acres or more and is held under single ownership or unified control, provided a zoning or rezoning application is submitted for the tract or lots in compliance with the provisions of this chapter and the application is reviewed by the planning commission and approved by the board of trustees.
- (e) No PD application shall be approved without the written consent of each landowner whose properties are included within the PD. The PD application shall be made by a person or entity having an interest in the property to be included in the PD and shall include the consent of all owners of interest in such property. Lienholder consent will consist of a written acknowledgment that the mortgaged title holders agree to the application for a PD in the town.

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- (f) Approval of a Planned Development Plan (hereinafter referred to as “PDP”), the initial approval for a PD zone by the board of trustees shall constitute an overlay district upon the base zone, the base zone being the zone district designation existing prior to the approval of said PDP. If the time limits, as spelled out in the development schedule expire and no time extensions for the Final Development Plan (hereinafter referred to as “FDP”) are approved, then the board of trustees, in its sole discretion, may terminate the FDP and may record a resolution with the El Paso County Clerk and Recorder evidencing such termination. Upon such termination, the PDP shall also be deemed to have been expired and cease to exist as it relates to all lands within the development for which a final plat and FDP have not been approved (undeveloped lands). Despite such expiration, the zoning of undeveloped lands shall remain the same as it existed under the PDP, except no further permits or approvals, including but not limited to FDP, final plat, or building permit approvals, shall be granted by the town in connection with the undeveloped lands unless and until the town has approved a new or amended development plan for the undeveloped lands or a portion thereof. The FDP shall continue to exist and apply to all parts of the development other than the undeveloped lands.
- (g) Where an expired PD was approved with an annexation, the base zone shall be the Residential Agricultural district (RA-5), unless the board expressly determines **upon review and recommendation by the planning commission to the board of trustees that a different designation is more compatible with the adopted Community Master Plan.**
- (h) Existing PDs shown on the Official Zoning Map. Planned Developments without a Planned Development Plan (PDP) or Final Development Plan (FDP) recorded at the El Paso County Clerk and Records Office are required to initiate a new planned development zoning application.
- (i) Upon approval of the PDP, the PD shall be given an ordinance number and its geographical area outlined on an overlay sheet constituting part of the Official Zoning Map of the town. This PD designation and ordinance number shall continue until the development schedule in the PDP or the FDP expires as provided above or is extended amended, or completed. Upon filing and recording of a PDP, the designation shall stand unless changed, and all documents shall be kept on file for reference. (drafting note: Once a PDP is approved this constitutes the zoning to PD.)
- (j) Land use and development within any PD approved pursuant to these regulations shall be controlled by the provisions of the approved PDP and FDP. Specific maps and a written document detailing negotiated items and other matters related to these approved plans shall be recorded with the El Paso County Clerk and Recorder and duplicate files of said plans and documents kept on file for ready reference in the administrative offices of the Town Clerk.
- (k) Building permits. No building permits shall be applied for or granted **until a certificate of zoning compliance is issued in accordance with Section 17.12.065 of this chapter, nor shall the PPRBD issue any permit** on any portion of property that is currently zoned PD district until and unless the property is platted in accordance with the Town subdivision ordinance as amended and unless a final development plan (FDP) in conformance with this chapter is reviewed by the planning commission and approved by the board of trustees.

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**17. 72.030 Modification of Subdivision Regulations.** *(drafting note this updates 17.72.80)*

(a) The provisions of these regulations concerning PDs are not intended to eliminate or replace the requirements applicable to the subdivision of land or airspace, as defined in state statutes and the codes and regulations of the Town. The uniqueness of each PD may **suggest** that specifications for the width and surfacing of streets, public ways, public utility rights-of-way, curbs, and other standards may be subject to modifications from the specifications established in the subdivision regulations adopted by the town, if the reasons for such exceptions are well documented. Modifications may be incorporated **only with the review and recommendation of the Planning Commission and approval by the Board of Trustees** as a part of its review of the PD, FDP and/or the development agreement for a PD and shall conform to acceptable engineering, architectural, and planning principles and practices. It is the intent of this section that any subdivision review under the subdivision regulations be carried out either:

- (1) ~~Subsequent to~~ **After the approval** of PDP; or
- (2) Simultaneously with the review of an FDP or
- (3) Within the time frame specified in the development schedule included in the approved PDP and FDP.

(b) Results of failure to meet schedule or record a final development plan. Failure by the developer to submit a final development plan or to comply with scheduled dates for development shall result in one of the following actions:

- a. Suspension of approved PD or Final Development Plan, pending its reinstatement upon meeting the obligations required for the past due date.
- b. **Planning Commission review and recommendation and then approval, conditional approval, or denial by the Board of Trustees of an** extension of due dates if the extension is justified by the developer.
- c. Stop orders or a freeze on the issuance of new development **or building** permits.
- d. Reversion of the PD zone back to the base zoning as established hereby.

**17.72.40 Development time frame and appeals.** *(drafting note this adds flexibility to 17.72.160)*

From start of construction, the maximum time allowed is one year ~~six months~~ after approval of the Final Development Plan (FDP). If development has not commenced, a new FDP shall be required. One or more extensions may be allowed for good reason by the planning commission and the board of trustees.

**17.72.50 Conditions and Standards**

**(a) Since the PD district contains no established residential density or non-residential square footage requirements, nor establishes any dimensional standards, and an applicant is allowed to propose by way of example but not limited to alternative parking standards, sign standards, and other site planning and architectural designs to achieve innovation in design, the PD shall be subject to the following performance criteria.**

- (1) One or more of the following shall be achieved to approve a Planned Development:

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- a. The encouragement of innovations in residential, commercial, and limited industrial development through greater variety in the type, design, and layout of buildings that the Town's existing zone districts cannot accommodate and by the conservation and more efficient provision of open space ancillary to the associated development.
  - b. A better distribution of **induced** traffic on streets and highways.
  - c. Conservation of the value of the land.
  - d. Preservation of the site's natural features.
- (2) The design and construction of the PD shall include adequate, safe, and convenient arrangements for pedestrian and vehicular circulation, off-street parking, and loading spaces. **Loading spaces are required for both non-residential development and residential development in compliance with the PPRBD-adopted building codes and the town's adopted parking and loading requirements, as amended.**
- (3) The density and/or intensity of development shall be based on the capacity of the land proposed for development to support the PD as well as the impact of the proposed development on town services and facilities and on neighboring properties that reasonably could be impacted by the proposed development. The capacity of the land shall be determined based on the size, topography, and geological and environmental limitations of the land proposed for development.
- (4) While there may be no fixed dimensional requirements, the planning commission may **recommend to the board of trustees** and the board of trustees may require and **approve** setbacks, lot widths, and space between buildings as necessary to provide adequate access and to aid in fire protection, ensure proper ventilation, light, air, and snow melt between buildings, and to ensure that the PD is compatible with other developments in the area.
- (5) Open space for the PD developments shall be planned to produce maximum usefulness to the users of the development **and general public** for purposes of recreation, preservation of scenic views, and to maintain the character of the areas as outlined in the adopted Community Master Plan. All areas designated as common or public open space pursuant to the requirements of this Chapter and the **Subdivision regulations** shall be accessible by proper physical and legal access ways.
- (6) All dimensional standards shall be established and documented on an approved written and graphic PD plan.
- (7) The developer shall provide within the PD central water and sewer facilities as required by the Planning Commission, Board of Trustees, the Palmer Lake codified water requirements, Palmer Lake Sanitation District, Colorado Department of Public Health and Environment, and El Paso County Public Health.
- (8) Clustered development is allowed and encouraged to promote maximum open space, economy of development, and variety in the type, design, and layout of buildings. In a multi-lot PD, the averaging of lot areas shall be permitted to provide flexibility in design and to relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with usable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs.



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- (9) The PD shall provide pedestrian ways adequate in terms of safety, separation, convenience, and access to points of destination.
  - (10) The PD shall provide parking areas in conformance with the minimum site development standards of this Title in terms of the number of spaces for each use, location, dimensions, circulation, landscaping, safety, convenience, separation, and screening.
  - (11) The PD shall strive for preservation of the natural features on the site **in accordance with the adopted Community Master Plan, as may be amended.**
  - (12) The maximum height of buildings may be increased above the maximum permitted for like buildings in other zoning districts in relation to the following characteristics of the proposed building:
    - a. Its geographic location.
    - b. The probable effect on surrounding slopes and terrain.
    - c. Unreasonable adverse visual effects on adjacent sites or other areas in the vicinity.
    - d. Potential problems for adjacent sites caused by shadows, loss of air circulation, or loss of view often achieved through the addition of overlay view corridors and other legally viable means.
    - e. Influence on the general vicinity, with regard to vistas and open space.
    - f. Uses within the proposed building.
    - g. Fire protection needs.

**17.72.60 Permitted Uses** *(drafting note- this section was simply rearranged)*

This district is intended to be used only when no zone district in this Code, or no combination of zone districts, can be used to approve a new development that provides substantial additional benefits to the Town that would not otherwise be achieved by this Code. The following combination of principal permitted uses are allowed in a Planned Development districts as long as the PD intent statement can be satisfied:

- (1) Mixed-use developments.
- (2) Residential dwelling units in detached, attached, or multi-family structures or any combination thereof.
- (3) Nonresidential uses.

**17.72.070. - Buffering, screening and setbacks.** *(current code).*

Uses, buildings, or structures on the perimeter of the PD district shall be set back, arranged, and adequately buffered and/or screened to ensure their appearance and use will be compatible with adjacent land uses. Building setbacks along the perimeter of the PD zone district shall be a minimum of 25 feet. Building setbacks shall be a minimum of 200 feet along the frontage of State Highway 105 and Spruce Mountain Road.

~~(Code 1973, § 17.52.070; Ord. No. 1-1991, § 9, 1991)~~

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**17.72.080 Maintenance Provisions and Plan** *(drafting note this is essentially the existing 17.72.140- last version reviewed by PC only had the first paragraph).*

- (a) No PD shall be approved unless the board of trustees, after planning commission review and recommendation, is satisfied that the landowner has provided for or established an adequate organization **or entity** for the ownership and maintenance of common open space and private roads, drives, and parking.
- (b) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after approval of the planned development, fail to maintain the common open space in reasonable order and condition, the applicable code enforcement procedures will be implemented.
- (c) In cases in which maintenance of roads, common areas, open space, or facilities normally maintained by public entities are proposed to be maintained by homeowners' associations, or other non-governmental bodies, the applicant shall submit a maintenance plan, with the final PUD development plan, conforming to the following requirements:
  - (1) Identification of present and proposed ownership for the facilities or areas included within the maintenance plan. In the case of condominiums, townhouses, or other multiple dwelling units, the method of conveying title and the estate to be granted shall be noted.
  - (2) A service plan to include:
    - a. Proposed method of guaranteeing maintenance.
    - b. Proposed form of unified control which shall include identification and description of corporations, partnerships, trusts, owner's association, or other legal entities having the right to assess individual landowners within the development and identification of the method proposed to enforce required assessments.
    - c. Cost of capital construction for proposed facilities, cost of maintenance of such facilities per year, amount proposed to be assessed to meet such expenses.
    - d. Proposed administrative mechanism to assure that maintenance is carried out as planned.
    - e. Suitable collateral to ensure that in case of discontinuance of control and maintenance, the town may assume such duties as may be appropriate without additional cost to the taxpayer. Collateral shall include liens, letters of credit, bonds, or such method as approved by the town board.

**17.72.90 Density** *(drafting note this further clarifies and updates 17.72.050)*

- (a) The density and/or intensity of the proposed development shall be based on the capacity of the land to support the PD as well as the impact of the development on Town services and facilities and on neighboring property. The capacity of the land shall be determined based on the size, topography, and constraints of the site.
- (b) Community Master Plan and approved zoning map. The residential densities established in the Town's Community Mater Plan shall be considered the maximum allowed densities



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unless the board of trustees based on the PD plan or new evidence, **upon review and recommendation of the planning commission**, finds that such density is not reasonable or desirable.

- (c) The maximum allowed density PDs for areas that are not currently included under the adopted Community Master Plan, shall be established in accordance with the following criteria:
- (1) Land use (actual or planned) and character of the surrounding neighborhood and the impact of the proposed PD on adjacent areas.
  - (2) The ability of existing municipal services and off-site streets, utilities, parks and open spaces, and drainage systems (together with improvements proposed) to effectively serve the proposed PD development.
  - (3) The extent to which the proposed PD contains unique or innovative design features or utilizes and incorporates special site conditions into its design to mitigate the impact of the proposed development on the site and adjacent areas.
  - (4) The amount of on-site, usable open space, and active recreation areas.

~~(Code 1973, § 17.52.050; Ord. No. 1-1991, § 7, 1991)~~

**17.72.080. Open space requirements.** *(minor edits to the existing 17.72.060 and follows PC direction on newly adopted subdivision ordinance, also includes language from 16.50.020)*

- (a) Amount of open space required. The total usable open space within a PD development shall be at least thirty (30) percent of the gross acreage of any residential development containing new housing units (or the cash-in-lieu market value), not including right-of-way and fifteen (15) percent for non-residential development (or the cash-in-lieu market value). No more than fifteen (15) percent of the required percentage of usable open space shall be in the form of water surfaces, floodplains, drainage ways, slopes over 15 percent grade, or stormwater detention areas. At least 25 percent of the usable open space shall be developed for active recreation, which may include, but not be limited to, playing fields (tennis, volleyball, and basketball courts), playground areas, picnic sites, park areas for pets, hardscape plazas, or similar active recreation areas. For the purpose of this section, usable open space **may** include land dedicated to parks as required by the Town's subdivision ordinance **upon review and recommendation by the planning commission to the board of trustees.**
- (b) Usable open space defined. Usable open space shall include common open space, or any portion of the development not occupied by buildings, structures, parking areas, driveways, streets, alleys, or service areas.
- (c) Open Space Negotiations. PDs are negotiated zone districts and open space dedication is one of the special benefits. The location, type and size of the required open space dedication shall be carried out to ensure the maximum benefit to the **users** of the PD and to the general public. **The final determination of the amount of open space required in light of the extra benefit required of a PD shall be based on a review and recommendation by the planning commission to the board of trustees. The board may require open space dedication, payment of a cash-in-lieu of fee or a combination**

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**of thereof. The board may approve, approve with conditions, or deny the recommended open space dedication or fees in lieu of.**

- (d) Open space maintenance. Provision shall be made through covenants, homeowners' associations or other means acceptable to the board of trustees for the continuing maintenance of any common open space and private walkways not intended to be dedicated to the town.
- (e) Homeowners' association. When the board of trustees deems it appropriate, a nonprofit, incorporated homeowners' association, maintenance district, or other suitable mechanism shall be required for the purpose of improving and maintaining common facilities and amenities. In addition, the board may require approved protective covenants to run with the land. Prior to approval of the PD development, agreements shall be provided which reflect suitable guarantees for the maintenance of common facilities and amenities.

~~(Code 1973, § 17.52.060; Ord. No. 1-1991, § 8, 1991)~~

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*Drafting note for reference*

**CURRENT CODE READS AS FOLLOWS: PC WANTED THIS TO REMAIN:**

*Amount of open space required. The total usable open space within a PUD development shall be at least 30 percent of the gross acreage of the development. No more than 25 percent of the required percentage of usable open space shall be in the form of water surfaces, floodplains, drainage ways, steep slopes or storm water detention areas. At least 25 percent of the usable open space shall be developed for active recreation which may include, but not be limited to, playing fields; playground areas; tennis, volleyball, and basketball courts; picnic sites; bosting areas; or similar active recreation areas. The requirement for active recreation areas is encouraged, but not required, in single-family detached residential developments. For the purpose of this section, usable open space shall not include land to be dedicated for parks or schools without the consent of the Board of Trustees*

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- *DRAFTING NOTE- SECTIONS 17.72.90 THROUGH X WERE TO HAVE BEEN MOVED TO ARTICLE 6- PROCEDURES. BASED ON THE NOVEMBER 22<sup>ND</sup> DRT CONFERENCE CALL PROCEDURES AND DEFINITIONS NEED TO BE INCLUDED IN THIS PD ORDINANCE.*
  - *THIS ENTIRE SECTION IS A MODIFICATION OF SECTIONS 17.72.090 THROUGH 17.72.110 OF THE CURRENT CODE- TRACK CHANGES OR ORANGE TEXT HAVE NOT BEEN USED.*

#### **17.72.090. Process Overview.**

- (a) The application for a PD in the Town of Palmer Lake shall be subject to a four-faceted review process consisting of a pre-application conference with staff and DRT, Sketch Plan submittal, Planned Development Plan and Final Development Plan with options for the application composed of the following:
  - (1) Pre applications conferences(s).
    - Optional preapplication conference with town officials
    - Optional public or neighborhood meetings arranged by the applicant.
  - (2) Sketch Plan Review
  - (3) A Planned Development Plan (PDP); and
  - (4) A Final Development Plan (FDP).
- (b) If the applicant seeks to develop the project in phases, the planning commission and board of trustees may, at their discretion, postpone the obligation of the applicant to fulfill any of the submission requirements set forth in this Chapter for any delayed phase of the project.
- (c) These regulations are intended to be applicable to large as well as small project sites. Applicants are encouraged to combine subdivision with the PD process where appropriate and after conferring with Town staff and the DRT.

#### **17.72.100. Preapplication Conference**

- (a) A preapplication conference with Town Staff and DRT is required. Before the actual submission of the Planned Development Plan application, the applicant shall participate in a preapplication conference with Town staff/DRT. A preapplication conference is a non-binding meeting held when an application submittal is imminent. It benefits the applicant by giving them the opportunity to discuss submittal requirements with the Town Staff and the DRT. The preapplication conference also serves to facilitate discussion about the technical and engineering elements of the development.

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- (b) *Optional Preapplication conference with the Planning Commission and/or BOT.* The applicant, who shall be the landowner or his agent in fact with the power to consent to the inclusion of the site within the PD district, may meet with town officials before the submittal of the application for PD zoning. Any statements in the work session are nonbinding.
  - (c) *Optional Public meeting or neighborhood meetings.* The applicant may hold an information meeting for the public. This meeting is by the applicant and not by the Town boards or staff. All arrangements and publicity for such meetings are solely the responsibility of the applicant.

**17.72.110 Sketch Plan** *(existing 17.72.090- will be updated in new Article 6- table of submittal items)*

- (a) Contents of the sketch plan map to be reviewed at the preapplication conference are described in this section. This plan is to be an indication of the developer's intent, not necessarily to scale, and subject to change.
- (b) The sketch plan map should be approximately scaled, include the entire PD tract and lots, and show in the topography of the land, the location of proposed uses and major buildings, the proposed development density, housing types, layout of roads by functional classification, approximate rights-of-way, layout and configuration of common open space, and location of all entrances to the tract.
- (c) The developer also submits a brief narrative text that describes the general design and architectural policies for the PUD, the treatment of environmentally sensitive land located in the project tract, the proposed time frame for the phased development, and the phases selected as concept plans in the preliminary plan for the PUD tract.
- (d) Application for zoning. After the preapplication conference or conferences, the applicant for a PD zone district may make written application to the planning commission in accordance with current processing schedules and submittal timelines. All information required by this chapter shall accompany the application.

**17.72.120. Planned Development Plan (PDP).**

**(a) Complete application.** The complete application packet shall be submitted with detailed information to provide adequate review by decision-making bodies and the general public. The completed application shall be known as the PD Planned Development Plan. In addition to the requirements in 17.12.050 and 17.12.055. The application shall include the following:

- (1) A legal description of the total site.
- (2) Proof of ownership of all lands included in the Planned Development Plan (PDP) area.
- (3) A description of the character of the proposed development, the goals and objectives of the project, an explanation of how the development incorporates innovative design,

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the rationale behind the assumptions and choices made by the applicant, and an explanation of the manner in which it has been planned to conform to the adopted Community Master Plan.

- (4) Statements clearly outlining the proposed maximum (up to and including) limits or amounts of all design standards contained in this Title that will be included, or alternate development standards requested to be applied to the PD.
- (5) A general description of the proposed open space, how this requirement for the development and an explanation of how said open space shall be integrated with surrounding developments, both existing and proposed, or how the payment of fees in-lieu of open space and/or in-kind improvements will provide a benefit to the Town.
- (6) A development schedule for the Planned Development Plan and submission of subdivision applications, if applying for concurrent review.
- (7) Quantitative data for the following:
  - (1) Total number and type of dwelling units for residential PDs and the total and type of square footage of each land use within a non-residential PD.
  - (2) Approximate parcel size.
  - (3) Proposed lot coverage ratios of buildings and structures.
  - (4) Proposed gross and net residential densities, and non-residential densities.
  - (5) Amount of required land dedication (parks, open space, wetlands, trails, recreation sites, etc.).
  - (6) Water and sewer demand for projected uses.
  - (7) The proposed maximum height(s) of buildings, setbacks, and related dimensional standards within the PD.
- (8) If residential units are proposed within a residential or mixed-use PD, a letter from the school district stating their ability to accommodate the projected number of students generated by the development and a statement of any applicable land dedication or fees.
- (9) Graphic Documents. Supporting maps, plans, and drawings that portray the basic concepts proposed in the application. The documents shall include, at a minimum, the following information.
  - (1) A vicinity map at a legible scale.
  - (2) The existing site conditions including topographic contours and watercourses, floodplains (i.e., 100-year), wetlands, wildlife habitat and corridors, unique natural features, and vegetation cover.
  - (3) Proposed subdivision boundary lines and site designs in specific or prototypical form. The general location of all existing buildings and improvements. Preliminary architectural standards, elevations, and planned construction materials of proposed buildings and structures.



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- (4) General location and size in acres or square feet of areas to be conveyed, dedicated, or reserved as common and private open spaces, public open spaces or parks, recreational areas, school sites, and similar public and quasi-public uses and any proposed fees in-lieu of land dedication, or combination thereof.
  - (5) Existing and proposed circulation system of arterial and collector-type streets and major points of access to public rights-of-way for vehicle, pedestrian, and bicycle traffic. Notations of proposed ownership, public or private, shall be included. The locations of local streets may be required at the discretion of the Planning Commission.
  - (6) A generalized grading plan for streets requiring substantial cuts and fills.
  - (7) Description and lot layout showing how 17.68 Hillside Overlay District and Stormwater Quality Control requirements impact site development.
  - (8) The proposed concept and general off-site connection methods for utility service including sanitary sewers, storm sewers, water, electric, gas, cable, and telephone lines.
  - (9) Preliminary drainage plan for the entire project indicating proposed on-site facilities and treatment and abatement of drainage to adjoining properties.
  - (10) A preliminary lighting plan.
  - (11) Additional Information. The planning commission may require additional information from the applicant to evaluate the character and impact of the proposed PD on the Town, including not limited to fiscal impacts, traffic, wildlife, environmental impact etc. over the period of the generalized development schedule.

**(b) Approval Procedure.**

- (1) Step 1: The completed application packet and supplementary submittal materials shall be filed with the Town Clerk at least 30 days in advance of the regular meeting date of the planning commission at which the Planned Development Plan (PDP) will be heard. **The publicly noticed meeting date will be determined once the town receives all referral comments from parties of interest, and the staff and DRT have completed a technical review of the submittal. Changes to the original submittal by the applicant requiring substantive review may cause the public hearing to be delayed.**
- (2) Step 2: Within a reasonable time, the Town Administrator or designee shall review the application and determine it is complete or send notice to the applicant of deficiencies. The applicant shall address the deficiencies and provide missing or updated information to the Town Administrator. Upon determination that the application is complete, a completeness certification is provided to the applicant
- (3) Step 3: *Refer the application to parties of interest.* Staff shall send information about the application by regular mail or electronic e-mail to adjacent municipalities,

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- El Paso County, appropriate referral agencies, and other parties of interest. A list of all appropriate referral agencies shall be maintained by the town clerk. Parties of interest receiving a copy of the application and accompanying materials may, within 30 days after receipt, forward written reports of its findings and recommendations to the town. Failure of any reviewing agency or department to respond within the allotted time may be deemed as a response that the agency or department has no comment on the application and submission documents. Failure to submit a written report to the town shall not be deemed as approval or acceptance of the proposed PDP by such agency. Reports received by the town after the allotted referral time may, but need not be, accepted by the planning commission or the board of trustees at any time prior to the planning commission's or the board of trustee's action on the PDP.
- (4) Step 4: The planning commission shall hold a public hearing on the PDP under Title 16.20.090. *(drafting note- PC direction was a unified development code, therefore there will be one section on procedures.)*
  - (5) Step 5: The planning commission shall either recommend approval, approve with conditions, disapproval, or continue the hearing for 30 days. Consent of the applicant(s) is required for any continuance beyond 30 days. Lack of consent to continue or failure to reach an agreement on negotiated items shall be deemed a recommendation of denial.
  - (6) Step 6: A Public Hearing before the board of trustees shall be scheduled pursuant the procedures set forth in Title 16.20.090.
  - (7) Step 7: If the application is approved as presented, conditionally approved, or denied, the Board of Trustees shall, by resolution, either approve the necessary PUD designation, or disapprove said application. If approved, the PDP documents shall be recorded with the El Paso County Clerk and Recorder.
  - (8) Step 8: Within one year following the approval of the Planned Development Plan, the applicant shall file an application packet for a Final Development Plan (FDP).
  - (9) Step 9: If the applicant fails to apply for an FDP or the extensions of deadlines described above, then the Board of Trustees in its sole discretion may terminate the PDP following notice at a public hearing.
  - (10) Step 10: Minor Amendment to the Planned Development Plan. Minor changes of not more than 10% in development standards shall be processed by the Town Administrator and DRT. Any minor amendments beyond 10% but still considered minor by the Town Administrator shall be subject to review and consideration by the planning commission. Upon consideration of said changes, the planning commission shall take formal action in writing, either approving, approving with conditions, or disapproving the changes.
  - (11) Step 11: Major amendments to the Planned Development Plan include without limitation:
    - a. A change in land use or development concept.
    - b. An increase in density or building coverage.
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- c. An increase in the maximum allowed height of structures.
  - d. A realignment of major circulation patterns or a change in functional classification of the street network.
  - e. A reduction in approved open space or common amenities.
  - f. A reduction of off-street parking; or
  - g. Any changes in the development standards or written submittal impacting the intensity, density or design of such standards.
- (12) Step 12: Major amendments to the PDP review and recommendation require review and recommendation by the planning commission followed by approval, approval with conditions or denial by the board of trustees. An application to amend the PDP shall be submitted for consideration and review according to the process outlined above.

#### **17.72.130. Final Development Plan ("FDP").**

- (a) Overview. The FDP application is intended to specify design components of the PD or portions thereof and provide for the review of additional items not required by the PDP. An FDP application may be made for all or a portion of the entire PD district as previously approved at the PDP stage. All FDP's must include building locations and footprint dimensions and the location of the required open space dedication, and all required engineering. In any PD, an approved FDP for all or portions of the district must be subdivided before any building permits are issued for the construction of buildings and structures. The completed application shall be known as the FDP.
- (b) Submission Requirements. The FDP shall include all of the information required in the Planned Development Plan in its finalized, detailed form plus any additional items included below. Omissions are cause to continue or deny the application.
- (c) Written Documents. The applicant shall submit a written development plan which shall include the following additional information:
- (1) A final development schedule indicating the approximate date(s) when construction of the PD or phases of said development can be expected to begin and to be completed.
  - (2) If applicable, a description of the proposed open space to be provided at each stage of development; an explanation of how said open space shall be coordinated with surrounding developments; the total amount of open space (including a separate figure for the usable amount of open space); any in-lieu of dedication proposal, a statement explaining the anticipated legal treatment of ownership and maintenance of common open space areas and the amounts and location of dedicated public open space.
  - (3) Copies of proposed development standards, final covenants, declarations, architectural design standards, grants of easements or other restrictions to be imposed upon the use of the land, including common open spaces if applicable, buildings, and other structures within the development.

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- (4) Final environmental studies of the proposed site(s) prepared and attested to by qualified professionals in the fields of soil quality, slope, topography, geology, water rights and availability, groundwater conditions, and impact on wildlife.
  - (5) Any required dedication, documentation and/or improvement agreements and bonds plus a title insurance commitment dated not older than 30 days prior to application.
  - (6) Any new items not submitted with the Planned Development Plan.
  - (7) Quantitative data for the following: final number of dwelling units, total amount of non-residential square footage by use type, calculations for previously agreed upon design and development standards, and footprint sizes of all proposed buildings.
  - (8) A statement that integrates pertinent elements of any pre-annexation and development agreements and contracts negotiated with the Town.
  - (9) Final traffic impact study.
  - (10) Final utility and water plans.

**(d) Graphic Documents.** The applicant shall submit finalized graphics which shall include the following information:

- (1) Final Site Plan and plan maps that have been revised since the Planned Development Plan approval.
- (2) Final landscape plan.
- (3) The planned pedestrian, bicycle, and vehicular circulation system including their interrelationships with the vehicular parking and unloading system, indicating proposed detailed treatments of points of conflict.
- (4) An erosion control and stormwater plan, including evidence that the FDP complies with the Town's adopted Stormwater Quality Control ordinance.
- (5) The proposed treatment of the perimeter of the PD including materials and techniques used such as screens, fences, walls, illustrated on a landscape plan.
- (6) Final drainage plan stamped by a licensed Colorado engineer.
- (7) Final engineering and construction plans for public improvements and private streets.
- (8) A phasing plan if the development is approved for phased development.
- (9) A detailed lighting plan depicting on-site streetlight location, height, and fixture type, with supplemental specifications.
- (10) Such additional information as may be required by the Planning Commission or Board of Trustees necessary to evaluate the character and impact of the proposed PD.

**(e) Approval Procedure.**

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- (1) Applications for a Final Development Plan shall be submitted in accordance with Title 16 16.20.100. The FDP must be in conformance with the Planned Development Plan as approved or amended.
  - (2) The completed application packet and supplementary submittal materials shall be filed with the Town Administrator at least 30 days in advance of the regular meeting date of the planning commission at which the Final Development Plan will be heard. The publicly noticed meeting date will be determined once the town receives all referral comments from parties of interest, and the staff and DRT have completed a technical review of the submittal. Changes to the original submittal by the applicant requiring substantive review may cause the public hearing to be delayed.
  - (3) Within a reasonable time, the Town Administrator or designee shall review the application and determine it is complete or send notice to the applicant of deficiencies. The applicant shall address the deficiencies and provide missing or updated information to the Town Administrator. Upon determination that the application is complete, a completeness certification is provided to the applicant
  - (4) Upon determination that the application is complete, the Town Administrator shall refer the application to appropriate reviewing agencies in accordance with 17.72.120
  - (5) The planning commission shall hold a public hearing on the FDP in accordance with the provisions outlined in Title 16.
  - (6) The planning commission shall either recommend approval, approval with conditions, disapproval, or continue the hearing for 30 days. Consent of the applicant(s) is required for any continuance beyond 30 days. Lack of consent to continue or failure to reach an agreement on negotiated items shall be deemed a recommendation of denial.
  - (7) A Public Hearing before the Board of Trustees shall be scheduled pursuant to 17.72.120 Article. The Board of Trustees may approve, approve with conditions by resolution, or deny the application. If approved, the applicant shall provide two (2) signed mylars of graphic documents, (2) 24"x36" paper copies with original signatures and the applicant shall execute the FDP in a form acceptable to the El Paso County Clerk and Recorder and file it with the clerk and recorder. The recording fee shall be paid by the applicant.
- (f) **Building Permits.** No building permits shall be issued on land within the PD until an FDP for that land has been approved by the planning commission and board of trustees and a certification of zoning compliance has been issued by the town administrator or designee.
- (g) **Amendments to the Final Development Plan.** Minor changes of 10% or less in the location, siting, and height of buildings and structures may be authorized by the Town Administrator or designee.
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**(h) Approval for Amendments to the Final Development Plan.** The following changes will require review and approval by the planning commission and board of trustees at a duly noticed public hearing:

- (1) A change in the use or character of the development.
- (2) An increase in the overall land coverage of structures.
- (3) An increase in the intensity and density of use.
- (4) A reduction in approved open space.
- (5) A reduction of off-street parking and loading spaces.
- (6) A reduction in required pavement widths.
- (7) An increase in height over what was originally approved.
- (8) Change to the development standards as recorded with the PDP.
- (9) All other changes in use, or rearrangement of lots, blocks, and building tracts, or any changes in the provision of common open spaces may be made by the board of trustees after a report is prepared by the Town Administrator or designee, and upon recommendation by the planning commission. Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the FDP was approved or by changes in the Planned Development Plan.
- (10) Any changes which are approved for the FDP must be recorded as amendments in accordance with the procedure established for the recording of the initial FDP documents with the exception that prior to making its recommendation to the board of trustees, the planning commission shall hold at least one public hearing with published notice of the general description of said hearing in the official publication of the Town at least 15 days in advance of the hearing.

**(i) Review of Development Schedule.** Each approved FDP must contain a detailed development schedule of public and private improvements. Town staff shall monitor the development schedule. Failure of the developer to substantially adhere to the approved schedule shall be cause for an FDP special review by the planning commission. Special review shall be conducted as a result of one or more of the following:

- (1) Failure to begin subdivision platting and/or draw building permits for construction as detailed in the approved development schedule within 18 months of the scheduled starting date or extensions thereto.
- (2) Inactivity or documented lack of progress on any stage of the project for more than two years from the last completed benchmark in the approved development schedule, as determined by either the staff or planning commission.



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- (j) FDP Special Review process.** The FDP special review by the planning commission shall determine if the original assumptions and plans of the PD are still appropriate. During the review, the developer may request that the development schedule be formally amended. If no amendment is granted, the planning Commission shall forward a recommendation to the board of trustees that the FDP be declared null and void, in whole or in part.
  - (k) Request for extensions to the starting dates by the developer.** The planning commission may extend, for not more than two periods of 12 months each, the time for beginning the project.
  - (l) Hearing.** The Board of Trustees shall hold a public hearing to amend or void the FDP.

#### **17.72.130. Periodic Reviews of All Planned Development Districts.**

The planning commission will conduct a review of each project on a biennial schedule commencing on or about the anniversary date of the FDP approval. No fees will be charged to the owner of record for these reviews. The owner of record of PD projects may be asked by the planning commission or staff to appear at this review and make a progress report. The planning commission will decide and so note in the minutes as to whether adequate or no progress has been made by the owner of record.

#### **17.72.140. Common Improvements and Common Open Space.**

- (a) Legal Instruments.** The FDP shall be approved subject to the submission of legal instruments setting forth a plan or manner of permanent care and maintenance of all common improvements, required open space, and other facilities provided by the FDP. No such instrument shall be accepted until approved by the Town attorney as to legal form and effect, and by the Board of Trustees. Such documentation shall conform to Section 24-67-105(6), C.R.S.
- (b) Covenants and Articles of Incorporation.** All required common open space and other facilities provided may be conveyed to a public agency or private association. If the common improvements, applicable open space, or recreational facilities are conveyed to a private association, the developer shall file, as a part of the aforementioned instruments, a declaration of covenants and restrictions, bylaws, and articles of incorporation that will govern the association.

#### **17. 72.150. Other Provisions and Standards.**

- (a) Enforcement.** The provisions of the approved FDP may be enforced by the Town and/or by the occupants, residents, and owners of the PD to the extent and in the manner provided by Section 24-67-106, C.R.S., as may be amended. In addition to and without limitation on such powers of enforcement, the approved PDP or the FDP of the development may provide for additional rights and remedies as against the landowner in the event of any violation of the provisions of the plan.

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## 17.100.10 Definitions

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicable development sites* are those that result in land disturbance of greater than or equal to one acre, including sites less than one acre that are part of a larger common plan of development or sale. Applicable development sites include all new development and redevelopment sites for which permanent water quality control measures were required in accordance with an MS4 permit.

*Commission* means the town planning commission.

*Community Master Plan* means the Town of Palmer Lake's adopted Comprehensive Plan and which includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

*Covenant or restrictive covenant* means a contractual agreement between the subdivider or landowner and the buyer of a piece of property that restricts the use of all or portion of the property. The covenant will normally run with the land and therefore will apply to succeeding owners.

*Dedication* means an appropriation of land to some public use, made by the owner and accepted for such use by or on behalf of the public, and by which the owner reserves to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

*Design standards or design requirements* means all requirements and regulations relating to design and layout of subdivisions as contained in these regulations.

*Development* means any change in the use of land or improvements thereon, including, but not limited to:

- The construction, enlargement, reconstruction or renovation of any improvements which require a building permit.
- A change in use or intensity of use on the land, or within a structure.
- The placement of temporary structures on the land.
- Site clearance, removal or addition of vegetation, grading, dredging, mining, drilling, cut and fill activities, dumping soil or other materials, removal of soil or contouring of a site.

Notwithstanding the foregoing, the following shall not be deemed to constitute development:

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- Normal maintenance and repair of improvements which do not involve a change in use or intensity of use.
  - Nonstructural interior improvements when they have no effect on the square footage of the existing improvements and are not associated with a change of use.

*Development Agreement* means a legislatively approved contract between a jurisdiction and a developer (person) have legal or equitable interest in real property in the jurisdiction. The agreement establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, and improvements any other mutually agreed to terms and requirements.

*Development Review Team* means Town staff and contracted professionals including the Town Engineer, Town Planner, Town Attorney and other land use experts required in the review of development applications.

*Easements* mean areas within a subdivision other than streets or alleys that are reserved, conveyed, or dedicated for specialized or limited purpose(s).

*FEMA* means the Federal Emergency Management Agency.

*Improvements* means all facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, business, or other nonresidential purpose(s).

*Natural feature* means the components or processes present or produced by nature including soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife.

*New development* means land-disturbing activities; structural development, including construction or installation of a building or structure; creation of impervious surfaces; and land subdivision for a site that does not meet the definition of redevelopment.

*Open Space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land of the subdivision. The types of lands and reasons for preservation include, but are not limited to, the following:

- Lands that may be needed for the health and safety of the community, including areas required for the recharge of groundwater, reservoirs and surrounding lands, lands with vegetation ensuring better air quality, high wildfire danger zones, steep slopes, floodplains, buffers around airports and similar facilities.
- Lands that might be a resource for the community, including farmland, rangeland, lakes, streams, rivers, wetlands, and forests.
- Lands that might be ecologically valuable areas, such as habitat for animals and plants, unique ecosystems, or fire protection.

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- Lands that could provide a diversity of activities for the public, such as areas with outstanding historical, educational, cultural, or archaeological value, areas providing access to lake shores or rivers and streams;
  - Lands that may provide view sheds or aesthetically pleasing experiences; or Lands that may provide or act as community separators providing a buffer between communities.
  - Privately-owned landscaped areas, undeveloped portions of a lot, and rights-of-way are not considered open space.

*Parties of Interest* means any referral agency, any person to whom or organization to which the Town mailed notice of the hearing to, any person or organization which sent written comments to the Town regarding a pending application, or any person who appeared before the Board or Commission at any hearing.

*Property lines* mean those imaginary lines outlining the boundaries of properties on lots for the purpose of description in ownership, sale, lease, building development, or other separate use of property.

*Planned Development (PD) or Planned Unit Development (PUD)* means an area of land controlled by one or more landowners, developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space, or other restrictions of the conventional land use regulations of the Palmer Lake zoning ordinance.

*Redevelopment* includes a site that is already substantially developed with 35 percent or more of existing imperviousness; with the creation or addition of impervious area (including removal and/or replacement), to include the expansion of a building footprint or addition or replacement of a structure; structural development including construction, replacement of impervious area that is not part of a routine maintenance activity; and land disturbing activities.

*Right-of-way* means the entire dedicated tract or strip of land that is to be used by the public for circulation and service. The length and width of a right-of-way shall be sufficient to provide adequate accommodations for all the physical features to be included in said right-of-way, as hereinafter established.

*Road profile* means a drawing reflecting a proposed or existing vertical section of a road, street, or alley, for which right-of-way is to be or has been conveyed to the town for road purposes. A road profile may be a true or exaggerated profile, and may reflect either a centerline and/or both flow lines of a road, street, or ally.

*Sight Distance Triangle* means the area at the four (4) corners of an intersection that is to be kept free of shrubs, ground covers, berms, fences, signs, structures or other materials or items greater than thirty (30) inches in height. Trees shall not be planted in the triangular area.

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*Staff or Town Staff* means persons employed by the Town of Palmer Lake and may include contracted professionals.

*Street* means a public right-of-way, platted or unplatted, which provides vehicular and pedestrian access to adjacent properties

*A Traffic Impact Analysis (TIA)* means a study conducted by a traffic engineer that evaluates the availability and adequacy of the transportation system regarding traffic impacts due to proposed development including likely impacts of development that has been approved but not constructed. The TIA also forecasts additional traffic associated with a proposed development, identifies potential problems that might influence traffic flow, and suggests ways to mitigate any negative effects. When conducting a TIA, engineers typically evaluate factors such as the following.

- Roadway capacity
- Intersection operations
- Pedestrian safety
- Parking needs
- Environmental impacts