

CHAPTER 17 - PLANNED COMMERCIAL DISTRICT REGULATIONS

17.1 PURPOSE OF DISTRICT

The purpose of the Planned Commercial (PC) District is to encourage the mixing of retail, office, and civic uses within an urban framework which is small in scale and compatible with adjacent developments. The PC District is to be applied within the Town Center land use category on the Land Use Diagram of the Town's Comprehensive Plan in order to implement plan objectives and policies therein. It is the intent of this district that development approval shall occur in stages, necessitating approval of a concept plan for the overall development project, a tentative development plan for each phase of such development, and a final development plan addressing each building site or tract.

17.2 USES AUTHORIZED

- A. Only those uses identified as permitted uses, conditional uses or accessory uses in the Local Retail (LR) District are authorized within the PC District.
- B. In order to implement the policies of the Town's Comprehensive Plan and to promote the purposes of the District, the Town Council may limit the uses which may be established in the PC District.
- C. The property owner may propose additional non-residential and public uses consistent with the policies of the Town's Comprehensive Plan and the purpose of the district, which may be approved upon establishment of the PC District.

17.3 DEVELOPMENT AND PERFORMANCE STANDARDS

- A. Minimum development standards shall be those specified for the Local Retail (LR) District.
- B. In order to implement the policies of the Town's Comprehensive Plan and to promote the purposes of the District, the Town Council may impose limitations and conditions and vary standards governing the intensity of use, lot dimensions, height, setbacks, parking, landscaping, open space and layout of the proposed development.
- C. The Special Regulations in Chapter 19 and the Design Standards in Chapter 20 shall apply to all development within a PC District.
- D. Design Features. Project design must be approved in conjunction with the Concept Plan. From time to time the Town may promulgate and amend design criteria, which shall be approved by resolution of the Town Council, as an aid to implementation of this Chapter. Such guidelines shall be used by the Town to assist decision-makers in interpreting standards applicable to development within the PC district.

- E. The property owner may propose an alternative standard by requesting a waiver of performance standards pursuant to Section 17.7 of this chapter. The Council may approve such waiver in conjunction with its decision to establish or amend the district on the zoning map, where the waiver addresses a standard applicable to the concept plan, or in conjunction with its decision to approve or amend approval of a development plan, where the waiver addresses a standard applicable to the development plan. In no case, however, may the Council approve a waiver which authorizes a use not authorized in the PC district, or which increases the allowable intensity of any land use.

17.4 ESTABLISHMENT OF DISTRICT

A. Zoning Amendment.

The property owner, the Town Planning and Zoning Commission or the Town Council may initiate an application for establishment of a Planned Commercial District. The application shall be considered an application for a zoning amendment and shall be processed in accordance with procedures in Chapter 23. Upon adoption of an ordinance establishing the district, the zoning map shall be amended to reflect the boundaries of the District.

B. Concept Plan.

An application for establishment of a Planned Commercial District shall be accompanied by a concept plan which shall be processed simultaneously with the zoning amendment application. If the zoning amendment application is approved, the concept plan shall be incorporated within such amendment.

1. The concept plan shall contain the following information:
 - a. Public and private land uses for each tract or sub area to be developed and for each phase of development, including the proposed mix of public and private uses;
 - b. Adjacent existing and planned land uses;
 - c. Proposed open space, including designation of any sites to be dedicated for public use;
 - d. Proposed and existing thoroughfares, boulevards and large streets;
 - e. If the project is to be developed in phases, a proposed phasing plan that identifies the sequence of development and a time schedule for installation of major capital improvements to serve the development, including delineation of areas, building sites, land use and improvements to be constructed in independent phases and the scheduled timing and sequencing of such development; and

f. Such other features as are necessary to show the arrangement and pattern of private and public land uses.

2. Complete Application. No application for establishment of a PC district shall be deemed to be filed with the Town until the concept plan has been determined to be complete by the Town Administrator. Fifteen (15) copies of the concept plan shall be submitted.

C. Planning and Zoning Commission Recommendation.

Upon determination by the Town Administrator that the content of the concept plan is complete in accordance with Town requirements, the application, including the concept plan, shall be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission, after notice and public hearing in accordance with the procedures in Chapters 21 and 23 of these zoning regulations, shall formulate its recommendation with respect to establishment of the district, including any conditions to be applied. The recommendation of the Commission shall be forwarded to the Town Council for decision.

D. Town Council Decision.

Following receipt of the Planning and Zoning Commission's recommendation, the Town Council shall conduct a public hearing in accordance with the procedures in Chapter 23 of these zoning regulations and, shall approve, approve with conditions, or deny the application for establishment of the PC district.

E. Approval Criteria for PC District.

Based upon the concept plan, the Planning and Zoning Commission in making its recommendations to the Town Council, and the Town Council, in determining whether the PC District should be established, shall consider whether the following criteria have been met:

1. The plan of development is consistent with the future land use policies and map in the adopted Comprehensive Plan.
2. Proposed uses and project design are compatible with existing and planned adjoining uses.
3. Adequate public facilities and open space will be provided in a timely manner to support each phase of the development.
4. Proposed uses and development standards are consistent with the purposes and standards of these District regulations.
5. The proposed timing of development is consistent with the overall growth and development of the Town.

6. The proposed development is superior in design and integrates proposed public and private land uses.

F. Conditions.

The Planning and Zoning Commission may recommend and the Town Council may require such conditions and modifications of the concept plan as are reasonably necessary to assure that the approval criteria are met. The Planning and Zoning Commission may recommend and the Town Council may authorize waivers from the standards generally applicable in these District regulations, provided that such waivers are consistent with the policies of the comprehensive plan and the overall purpose of the PC district. Such conditions and waivers shall be stated in the adopting ordinance as standards applicable to the project development.

G. Adopting Ordinance.

The ordinance establishing a PC District shall set forth the following provisions. The concept plan shall be incorporated as an exhibit to the ordinance.

1. a statement as to the purpose and intent of the district;
2. the permitted or conditional uses authorized in the district;
3. the conditions and waivers from standards applicable to development within the district;
4. required dedications or public improvements; and
5. the timing of performance by the developer in relation to the phasing of development, where applicable.

17.5 TENTATIVE DEVELOPMENT PLAN APPROVAL PROCEDURE

A. Purpose.

The purposes of a development plan are to assure that the development project proceeds in orderly fashion consistent with the approved concept plan and to assure that the standards applicable within the district are met for each phase of the project.

B. Application and Processing.

No permits for development in a Planned Commercial District shall be approved until a tentative development plan consistent with the approved concept plan has been authorized under the following procedures. The developer may submit a development plan simultaneous with submission of a concept plan in conjunction with an application for establishment of the PC district. In such a case, approval of the development plan shall follow authorization to establish the PC District,

subject to the standards in this section. A development plan may be prepared and submitted for the entire development at one time or for individual phases of development, and each such plan shall be submitted in fifteen (15) copies to the Town Administrator.

C. Submittal Requirements for Tentative Development Plan.

The tentative development plan shall include the following information:

1. A dimensioned, engineer scaled drawing on a sheet size 24" x 36", at a scale not less than 1" = 100', including existing and proposed site conditions and improvements;
2. Name and address of landowner and date of preparation of the plan;
3. Name and address of architect, landscape architect, planner, engineer, surveyor, or other persons involved in the preparation of the plan;
4. Site boundaries and dimensions, lot lines, site acreage, square footage of the entire project, a chart showing square footage of lots, and approximate distance to the nearest cross streets;
5. Location map, north arrow, title block and site data summary table;
6. Topography at two foot intervals or less;
7. Natural features including tree masses and anticipated tree loss, drainage ways, creeks, and limits of the 100 year Flood plain and floodway as shown on current FEMA mapping, including location and acreage;
8. Proposed and existing land use and zoning classifications on-site and on adjacent properties;
9. Building locations and footprints including building size, intensity, density, height, setback, use, building materials proposed and location of entrances and exits;
10. Elevations and perspectives to show the relationship of building heights to surrounding topography;
11. Public streets (including country lanes), private drives, alleys and fire lanes with pavement widths, right-of-way, buffers, median openings, turn lanes (including storage and transition space), and driveways (including those on or planned on adjacent property) with dimensions and radii;
12. Parking areas and structures, aisles and spaces, handicap spaces, ramps, crosswalks, sidewalks and other facilities for pedestrian circulation, and loading areas with typical dimensions;
13. Access easements and off-site parking;

14. Accurate outlines of proposed dedications and reservations of land for public or common use, including but not limited to: right-of-way, easements, park land, open space, drainage ways, flood plains, and facility sites;
15. Screening walls, fences, living screens, retaining walls, headlight screens and service area screens;
16. Landscaping and open space areas (See Chapter 20);
17. Existing and proposed topography reflecting proposed handling of on-site surface drainage, proposed improvements and method of maintenance for any drainage channels;
18. Existing and proposed gas mains or other underground structures, water and sanitary sewer mains and service lines with sizes, valves, fire hydrants, manholes, and other structures on site or immediately adjacent to the site specified;
19. Phases of development, including delineation of areas, building sites, land use and improvements to be constructed in independent phases and the scheduled timing and sequencing of development;
20. Proposed buffers from existing uses and between planned residential developments, where applicable;

D. Planning and Zoning Commission Recommendation.

Upon determination by the Town Administrator that the content of the tentative development plan is complete in accordance with Town requirements, the Manager shall forward the plan to the Planning and Zoning Commission for its recommendation. The Commission shall make its recommendations to the Town Council for approval, approval with modifications, or disapproval of the tentative development plan, including recommendations on waivers, within thirty (30) days following receipt of the plan from the Town Administrator.

E. Town Council Decision.

Upon receipt of the Commission's recommendation, and following a public hearing therein, the Town Council shall approve, approve with modifications or disapprove the tentative development plan, including waiver requests.

F. Approval Standards.

The Planning and Zoning Commission in making its recommendations to the Town Council, and the Town Council, in acting upon the tentative development plan, shall determine whether the plan meets the following general standards:

1. The tentative development plan generally is consistent with the approved concept plan and the standards and conditions set forth in the adopting ordinance.
2. The lot or tract configuration is consistent with applicable subdivision regulations.
3. The tentative development plan provides for the adequacy of and design of roads and other public facilities serving the development by phase or that conditions have been attached as necessary.
4. The project is adequately buffered from adjoining uses in accordance with the adopting ordinance.
5. Landscaping plans meet ordinance requirements or standards set forth in the adopting ordinance.
6. Where the preservation and maintenance of common open space and natural features of the project are to be undertaken by the developer, adequate covenants and assurances have been provided.
7. The tentative development plan is consistent with phasing requirements set forth in the adopting ordinance, and capital facilities, including open space facilities, serving the phase of development under consideration are adequate to serve the project.

G. Conditions.

The Planning and Zoning Commission, in making its recommendations to the Town Council, and the Town Council, in acting upon the tentative development plan, may establish such conditions and may require such modifications to assure that the development plan is consistent with the standards set forth in the adopting ordinance, the standards set forth in these district regulations, and the approval standards set forth in subsection G of this section.

17.6 FINAL DEVELOPMENT PLAN APPROVAL

A. Purpose.

The purposes of a final development plan are to assure that the development of individual building lots, parcels or tracts within a development project are consistent with the approved tentative development plan(s) and to assure that the standards applicable within the district are met for each individual building site.

B. Application and Processing.

No permit for a building site in a Planned Commercial District shall be approved until a final development plan consistent with the approved tentative development plan for that particular building site has been authorized under the following

procedures. The developer may obtain approval for a final development plan without prior approval of a tentative development plan by meeting the standards for a tentative development plan, as well as the standards contained in this section. In such case, approval procedures shall be as required in Section 17.5.

C. Submittal Requirements for Final Development Plan.

1. A dimensioned, engineer scaled drawing on a sheet size 24" x 36", at a scale not less than 1" = 100', including existing and proposed site conditions and improvements;
2. Name and address of landowner and date of preparation of the plan;
3. Name and address of architect, landscape architect, planner, engineer, surveyor, or other persons involved in the preparation of the plan;
4. Site boundaries and dimensions, lot lines, site acreage and square footage, and approximate distance to the nearest cross street;
5. Location map, north arrow, title block and site data summary table;
6. Topography at one foot contours or less referenced to sea level datum;
7. Natural features including tree masses and anticipated tree loss, drainage ways, creeks and limits of the 100 year Flood plain and floodway as shown on current FEMA mapping including location and acreage;
8. Land use and zoning on-site and on adjacent properties;
9. Building locations and foot prints including building size, intensity, density, height, setback, use and building materials proposed and location of entrances and exits;
10. Elevations and perspectives to show the relationship of building heights to surrounding topography;
11. Finished floor elevation of structures referenced to sea level datum;
12. Public streets (including country lanes), private drives, alleys and fire lanes with pavement widths, right-of-way, buffers, median openings, turn lanes (including storage and transition space), and driveways (including those on adjacent property) with dimensions, radii and surface type;
13. Parking areas and structures, including the number and layout of standard spaces, handicap spaces, the location of ramps, crosswalks, sidewalks and other facilities for pedestrian circulation, and loading areas with typical dimensions and surface type;
14. Access easements and off-site parking;

15. Accurate outlines of proposed dedications and reservations of land for public or common use, including but not limited to: rights-of-way easements, park land, open space, drainage ways, flood plains, and facility sites;
16. Screening walls, fences, living screens, retaining walls, headlight screens and service area screens, including height and type of construction and/or planting specifications;
17. Landscaping and open space areas with dimensions and total square footage (See Chapter 20);
18. Existing and proposed water and sanitary sewer mains and service lines with sizes, valves, fire hydrants, manholes, and other structures on site or immediately adjacent to the site specified;
19. Water and sewer connections, meter locations, size and meter and/or detector check valve vents indicated; Table of the number of water meters by size and noting if they are existing or proposed;
20. Existing and proposed gas mains or other underground structures;
21. Existing and proposed topography reflecting proposed handling of on-site surface drainage, proposed improvements and method of maintenance for any drainage channels, including inlets, culverts and other drainage structures on-site and immediately adjacent to the site;
22. Additional requirements - the following approvals may be necessary prior to authorization for development:
 - a. Preliminary or final plat or replat;
 - b. Engineering plans;
 - c. Traffic impact analysis;
 - d. Landscape and irrigation plans;
 - e. Tree preservation and protection plan;
 - f. Facade plan; and
 - g. Other approvals as required by ordinance.
23. Phases of development, including delineation of areas, building sites, land use and improvements to be constructed in independent phases and the scheduled timing and sequencing of development.

D. Decision by the Planning and Zoning Commission.

The Town Administrator shall review the final development plan application for completeness and for compliance with the standards and conditions applicable thereto to determine whether the application is complete. Thereafter, the Planning and Zoning Commission shall approve, approve subject to modification or deny the final development plan.

E. Appeal to Town Council.

In the event that the final development plan is denied or modified, the applicant may appeal the decision of the Planning and Zoning Commission to the Town Council.

F. Approval Standards.

The Planning and Zoning Commission, or the Town Council on appeal, shall determine whether the final development plan is consistent with the approved tentative development plan, the standards and conditions set forth in the adopting ordinance and the standards set forth in the PC district regulations.

G. Conditions.

The Planning and Zoning Commission, or the Town Council on appeal, may establish such conditions and may require such modifications to assure that the final development plan is consistent with the approved tentative development plan and the approval criteria set forth herein.

17.7 WAIVER PROCEDURE

A. Procedure.

An application for a waiver to a development standard authorized under this chapter must be made by a property owner, lessee, or contract purchaser at the time of submission of an application to establish a PC zoning district, or at the time of submission of a development plan application. A contract purchaser or lessee must file with the application a copy of the contract or lease or other form of written statement containing the property owner's endorsement of the application. The application shall be filed in duplicate with the Town Administrator on forms provided by the Town and reviewed for completeness in accordance with Chapter 21.

B. Standards for Granting Waiver.

The Planning and Zoning Commission in making its recommendations and the Town Council in deciding whether to grant the request for waiver shall determine that the following standards are met:

1. The waiver for the specific development site is in harmony with the policies in the Town's Comprehensive Plan.
2. The waiver is in harmony with the general purpose and intent of this chapter and the zoning ordinance.
3. The waiver shall not adversely affect the use of neighboring property and the public's use and enjoyment of public areas in accordance with the provisions of this ordinance.

4. The waiver is in conformity with the approved concept plan.

C. Conditions.

In granting a waiver to a development standard authorized under this chapter, the Planning and Zoning Commission may recommend and the Town Council may impose such conditions and safeguards as it deems necessary to insure harmony with the general purpose and intent of this ordinance. Any such condition shall be satisfied as a condition precedent to issuance of a certificate of occupancy for the development to which the waiver applies.

D. Lapse of Waiver.

A waiver granted under this section shall lapse with the lapse of the development plan or amendment to the PC district in accordance with this chapter.

17.8 AMENDMENT OF PLANS

A. General Requirement.

Amendment of any concept plan or development plan shall be made in accordance with the procedure required for approval of the initial plan. Amendments to a concept plan shall be considered amendments to the PC zoning district.

B. Alternatives and Flexible Standards.

Amendment of a concept plan is not required prior to submission of a development plan, where variations from standards have been approved in conjunction with establishment of the PC district, and the development plan is consistent with such waivers, and any conditions attached thereto.

C. Time for Amendment.

An amendment to an approved concept plan or development plan must be made prior to the time for lapse of approval. In the event an amended plan is approved, the official or agency amending the plan shall specify the time for lapse of such approval, consistent with the provisions of this chapter.

17.9 LAPSE OF APPROVALS

In a Planned Commercial District, progress toward development of an approved project shall occur within the following time periods:

A. Failure to Submit Tentative Development Plan.

A tentative development plan shall be submitted for approval within two (2) years from establishment of the PC District, unless otherwise provided by agreement. If a tentative development plan for all or a portion of the project is not submitted

within such period, the authority to submit such tentative development plan shall expire.

B. Failure to Submit Subsequent Tentative Development Plan.

If the project is to be developed in phases, a subsequent tentative development plan shall be submitted within two (2) years from approval of a final development plan for the preceding phase. If a subsequent tentative development plan is not submitted within such period, authorization to submit such tentative development plan for that portion of the property or other subsequent development plans for the property shall expire.

C. Failure to Submit Final Development Plan.

A final development plan shall be submitted for approval within one (1) year from approval of the applicable tentative development plan. If a final development plan is not submitted within such period, and following any extensions that may be granted, authorization to submit a final development plan shall expire.

D. Lapse of Final Development Plan and Extension.

If a building permit for an authorized use has not been obtained within one (1) year from the date of approval of a final development plan, the development plan shall lapse and no application for a site plan or building permit shall be accepted for filing thereafter. The property owner, however, may submit a request for extension of the final development plan at least sixty (60) days prior to expiration of such plan, setting forth the reasons why an extension should be granted. The Planning and Zoning Commission thereafter shall schedule a public hearing to consider such request and shall determine whether to extend the final development plan, subject to a right of appeal to the Town Council. In no case shall the final development plan be extended for a period in excess of two (2) years.

E. Stay of Process.

Upon expiration of any of the time limits for any step in the planned commercial development process set forth in this section, an application for the tentative or final development plan, as the case may be, shall not be accepted for filing or further processed, pending the outcome of the procedures set forth in subsections F through H.

F. Planning & Zoning Commission Recommendation.

Following expiration of the right to submit a tentative or final development plan, the Town Administrator will place the PC ordinance for the property on the agenda of the Planning and Zoning Commission for its consideration. Notice of the Commission's action shall state that the regulations governing the planned development district may be modified. The Commission shall conduct a public

hearing and shall utilize procedures for a zoning amendment pursuant to Chapter 21 of this zoning ordinance. The Commission thereafter shall recommend to the Town Council whether the right to submit a tentative or final development plan should be reinstated, or whether the property should be zoned to another classification.

G. Council Consideration.

The Commission's recommendation shall be referred to the Town Council for consideration in accordance with procedures applicable to zoning amendments. The Council shall determine whether the right to submit the tentative or final development plan should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider *inter alia* the following factors:

1. whether the PC district remains consistent with the Comprehensive Plan;
2. whether the uses authorized in the PC are compatible with existing and planned land uses adjacent to the site;
3. whether there are extenuating circumstances justifying the failure to submit a tentative or final development plan during the applicable time period; and
4. whether rezoning the property to another classification constitutes confiscation of a vested property right or deprives the owner of the economically viable use of the land.

H. Council Action.

The Town Council may take the following actions:

1. reinstate the right to submit the applicable tentative or final development plan within a time certain, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of the project;
2. modify the PC district regulations applicable to the property; or
3. repeal the PC district for the affected portions of the property.