

ARTICLE 7 SPECIAL AREA STANDARDS

SECTION 7.010 CLASSIFICATION OF SPECIAL AREA STANDARDS

For the purposes of this Code the following Special Area Standards are hereby established:

<u>SPECIAL AREA STANDARD</u>	<u>ABBREVIATED DESIGNATION</u>
Wetlands & Riparian Areas	WR
Planned Development Area	PD

(1) Special Area Standards may apply within any Primary Zoning District. The Special Area Standards shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Special Area Standards, the standards and requirements of the Special Area Standards shall apply.

(2) The **Conditional Use** procedures of **Section 2.500** shall be utilized to apply the Special Area Standards contained herein. A Conditional Use is a use of land or a structure that is normally appropriate in the zoning district where it is permitted, but due to the specific characteristics of the area additional development standards are required to safeguard the public health, safety and welfare.

SECTION 7.100 WETLAND & RIPARIAN AREA STANDARDS - WR

Wetland Areas are defined as those areas that are inundated or saturated often enough to support a prevalence of vegetation adapted for life in standing water or saturated soil. Wetlands include swamps, bogs, marshes and similar areas.

Riparian Areas are those areas adjacent to a water resource that display transitions between terrestrial and aquatic zones. These areas are beneficial to a large number of organisms and provide for flood storage amelioration, erosion control and bank or slope stabilization. This is the zone where vegetative material is deposited, where significant shading of streams can occur, where humidity is typically higher and temperatures typically cooler. Thermal regulation, erosion control, flood control, water quality improvement, and wildlife habitat are primary functions of riparian areas.

- (1) **Regulation.** Development within significant wetland or riparian areas is prohibited unless replacement or enhancement mitigation is accepted by the regulatory agencies. The Oregon Division of State Lands (DSL) is the coordinating agency for wetland permits. The US Army Corp of Engineers (Corps) is the federal regulatory agency administering Section 404 of the National Clean Waters Act. There are also other state and federal coordinating agencies including Department of Land Conservation & Development (DLCD).
- (2) **Applicant Notice.** All Applications for development of land within the City of Adair Village shall provide the City with information on the possible presence of wetlands or riparian areas on the property in conformance with **Section 2.140 (15)**. The City shall provide written notice to the Applicant that there may be a

potential need for state and federal permits due to the possible presence of wetlands or riparian areas on the property.

- (3) **City Notice.** **ORS 227.350** specifies that cities shall provide notice of proposed wetlands development to the Division of State Lands (DSL).

The City shall provide notice to the DSL, the applicant and the owner of record, within 5 working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory Map or other sources utilized by the City:

- (a) Subdivisions.
 - (b) Building permits for new structures.
 - (c) Other development permits and approvals that allow physical alteration to the land involving excavation and grading, including permits for removal or fill, or both.
 - (d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures.
 - (e) Planned unit development approvals.
- (4) The provisions of Subsection (2) of this Section do not apply if a permit from the Division has been issued for the proposed activity.
- (5) Approval of any activity described in Subsection (3) above shall include one of the following notice statements:
- (a) Issuance of a permit under **ORS 196.600 to 196.905** by the Division of State Lands required for the project before any physical alteration takes place within the wetlands;
 - (b) Notice from the Division that no permit is required; or
 - (c) Notice from the Division that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.
- (6) If the Division fails to respond to any notice provided under Subsection (2) of this section within 30 days of notice, City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
- (7) The City may issue conditional local approval for property identified as having wetlands or riparian areas by providing the applicant and the owner of record of the affected property a written notice of the possible presence of wetlands and the potential need for state and federal permits and provide the Division with a copy of the notification.

- (8) Notice of activities authorized within an approved wetland conservation plan shall be provided to the Division within five days following local approval.
- (9) Failure by the City to provide notice as required in this section will not invalidate City approval.
- (10) **Application.** The WR Special Area Standards shall apply to the property in addition to the standards of the Primary Zone when a designated wetland or riparian area has been identified on the property.
- (11) **Development Standards.** No development shall be permitted within designated wetland or riparian areas unless a permit has been acquired from DSL and any other regulatory agency having jurisdiction.

SECTION 7.200 PLANNED DEVELOPMENT AREA STANDARDS - PD

The purpose of the Planned Development (PD) is to provide opportunities to create more desirable working or living environments by the application of new development standards applied under an approved plan and program that is professionally prepared. The PD Standards are intended to be used to encourage the application of new techniques and new technology to community development that can achieve economies in land development while providing building groupings, open spaces and circulation systems that enhance the working or living environment of the inhabitants. A Planned Development may be residential, commercial or industrial or a mixed combination of land uses. Application procedures are as follows:

(1) Planned Development Application & Approval Process:

- (a) The City or a property owner may request a Planned Development in combination with any Primary Zone or other Area Standards in accordance with the application requirements of **Sections 2.110 through 2.140** and the **Conditional Use** procedures of **Section 2.500** and the requirements of **Sections 7.200** contained herein.
- (b) A property owner located in an existing PD may request approval of a new **PD Plan** in conformance with the requirements of **Sections 2.110 through 2.140** and the **Conditional Use** procedures of **Section 2.500** and the requirements of **Sections 7.200** contained herein.
- (c) Application for approval of a **Planned Development** requires a two-stage approach:
 - 1. The Applicant shall first submit a **PD Conceptual Plan** containing drawings and a written program that is presented in enough detail to clearly describe the proposed development.

An informal Pre-application review by City Staff and members of the Planning Commission or City Council will be scheduled in conformance with **Sections 2.110 and 2.120**. This review may be attended by members of the Planning Commission or City Council to provide additional counseling.

The purpose of the Review is to determine if the requested PD can conform to City standards, including:

- a. The Planned Development regulations.
- b. The Adair Village Comprehensive Plan.
- c. The Development Standards of the City.
- d. Compatibility with the surrounding area.

This preliminary process is intended to save time and expense for the Applicant and to provide the City with an understanding of the intent.

- 2. After receiving approval to proceed the Applicant shall have a **PD Approval Plan** prepared by a professional design team that contains

drawings and a written program for a formal public hearing and decision by the City.

- (2) A joint Public Hearing by the Adair Village Planning Commission & City Council shall be held in conformance with the **Conditional Use** procedures of **Section 2.500**. Following the hearing and approval of the **PD Approval Plan**, the Plan shall be resubmitted to the City containing any Conditions of Approval applied by the City.

The resubmitted plan shall be titled "**Approved Planned Development for (Name of the Development)**" and shall be submitted for verification and acceptance by the City Administrator. Approval shall be noted and dated on the cover of the "**Approved Planned Development for (Name of the Development)**" and filed in the Record File of the Application. If the Conditions of Approval have not been fully complied with and their inclusion cannot be resolved with the City Administrator, the Application shall be resubmitted to the Planning Commission & City Council as an Appeal Request.

SECTION 7.210 PLANNED DEVELOPMENT STANDARDS

- (1) **Minimum Site Size.** A Planned Development shall not be established on less than 5 acres unless the City finds a smaller area is suitable by virtue of the proposed development characteristics or location.
- (2) **Comprehensive Plan Compliance & Adjacent Property Protection.**
 - (a) The Planned Development plan and program shall present an organized arrangement of buildings, service facilities, open spaces and improvements in compliance with the intent of the Comprehensive Plan that also protects the property rights of adjacent property owners.
 - (b) Yards and setbacks located on the periphery of a Planned Development shall be at least as deep as those required by the yard regulations of the underlying Zoning District unless the City finds that equal protection will be accorded through the specific design features of the approved plan.
- (3) **Lot Coverage and Building Height.** Lot coverage and building height shall be no greater than for the underlying Zoning District unless the City finds that an exception is warranted considering adjacent property protections and the amenities proposed in the total development.
- (4) **Open Space.** Open space in a Planned Development means the land area to be used for scenic or open recreational purposes within the development.
 - (a) Open space does not include street right-of-way, driveways, parking areas, required setbacks, or public service easements unless these areas have some special recreational design or purpose.

- (b) Open space shall be adequate for the recreational and leisure use of the population occupying the Planned Development and shall be designed to enhance the development.
 - (c) Landscaping shall be provided and the Planned Development shall utilize and maintain the natural features of the property to the maximum extent possible
- (5) **Density.** Greater overall density than that specified for the Primary Zoning District may be allowed for an approved Planned Development consistent with the overall design of the development. Areas used for public street right-of-way or private roadway intended to provide access to more than two (2) structures shall be excluded when determining the overall density of the development. Water courses woodlands and open spaces may be included in determining the density of development.
- (6) **Subdivision Lot Sizes.** Minimum area, width, depth and frontage requirements for subdivision lots in a Planned Development may differ from the Primary Zone if approved in accordance with the approved Planned Development.
- (7) **Additional Standards and Controls.** The City may require additional standards or controls to protect adjacent property rights or the health, safety and welfare of the general public based upon the specific development request. Additional standards and controls may include, but are not limited to, the following:
- (a) Increasing the required setbacks to protect adjacent properties and to provide solar access.
 - (b) Controlling the location and number of vehicular access points.
 - (c) Establishing new streets, increasing the right-of-way or roadway width of existing streets, requiring curbs and sidewalks, and in general, improving the traffic circulation system.
 - (d) Requiring improvements for utilities or storm drainage facilities.
 - (e) Increasing the number of parking spaces and improving design standards for parking areas.
 - (f) Regulating the design, number, size, and location of lighting and signs.
 - (g) Designating sites for open space and recreation and increasing landscaping requirements.
 - (h) Requiring view obscuring screening or fencing.
 - (i) Establishing time limits for completion of all or any portion of the project, including, but not limited to utilities, drainage facilities, streets, curbs,

gutters, sidewalks, parking areas, landscaping, fencing, screening, and recreation areas.

- (j) Requiring legal guarantees for the shared maintenance of common facilities and open space. Documents dedicating development rights and provisions for maintenance shall be approved by the City.
 - (k) Requiring contractual agreements with the City to assure development of streets, sidewalks, drainage facilities, utilities, and other improvements in conformance with City Standards.
- (8) **Phased Development.** The Applicant may request approval to develop the site in successive stages as proposed in the **Approved Planned Development**.
- (a) Each such stage shall be a substantially complete unit of development.
 - (b) The City may require that development be done in stages if public facilities are not adequate to service the entire development initially.
- (9) **Permitted Uses in Residential Planned Developments.** The following uses and their accessory uses may be permitted in an approved Planned Development in a Residential District.
- (a) Residential use of land.
 - (b) Related commercial uses when approved by the City.
 - (c) Related community service uses when approved by the City.
 - (d) Proposed standards or controls shall be specified in the PD Plan and signed by the owners. Where applicable the requirements may be made part of deed CC&R's.

SECTION 7.220 PD CONCEPTUAL PLAN

An applicant shall submit at least 15 copies of the conceptual drawings to the City for review on 8 1/2 x 11 inch or 11 x 17 inch black & white or color reproducible paper. Larger drawings may also be submitted for group review and detailed analysis. An informal review by City Staff and members of the Planning Commission and City Council will be scheduled to determine if the requested PD conforms to the City's PD requirements and is conceptually compatible with the surrounding area and the City as a whole. The proposal shall address the following elements.

- (1) **Elements of the Plan.**
 - (a) Vicinity map showing location of streets and lots in the area within 300 feet of the proposed development.
 - (b) Existing lands uses.

- (c) Proposed land uses including housing unit densities (number of units per acre, type of residence, and number of bedrooms by type of residence); commercial facilities such as shopping and community facilities such as schools or parks.
 - (d) Building types and approximate bulk.
 - (e) Vehicular and pedestrian access, circulation, and parking pattern. Status of street ownership.
 - (f) Proposed Subdivision layout.
 - (g) Parks, playgrounds, and open spaces.
 - (h) Existing natural features such as trees, streams and topography.
 - (i) Landscaping, screening, and fencing proposals.
 - (j) Proposed method of solid waste disposal.
 - (k) Proposed method for provisions of water supply and sewage disposal.
 - (l) Proposed utilities.
 - (m) Proposed method for the handling of surface water drainage.
 - (n) Proposed grading patterns.
 - (o) Street and open space lighting proposals.
- (2) **Elements of the Program.**
- (a) Proposed members of the Professional Design Team.
 - (b) Proposed ownership pattern.
 - (c) Narrative description of the proposed Plan and development amenities.
 - (d) Operation and maintenance proposal, such as condominium, co-op, or Homeowners Association.
 - (e) Development schedule, to include expected starting dates, projection of completion time, and project phasing, if anticipated.
 - (f) Method of public improvements financing, if any.
- (3) **Review of PD Conceptual Plan**
- (a) An informal review with the Applicant and City Officials will be scheduled to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to proceed with an Approval Plan.

- (b) Members of the Planning Commission and City Council shall informally review the PD Conceptual Plan and may recommend preliminary approval to proceed in principle, with or without modifications, or denial. Such action shall be based upon compliance with the intent of City's Comprehensive Plan, the intent of City development standards and the extent of deviation from City standards proposed in the PD.
- (c) Approval in principle of the **PD Conceptual Plan** shall be limited to the preliminary acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse the precise location of uses nor engineering feasibility. The City may require the submission of additional information for the **PD Approval Plan** review.
- (d) The City shall review and may recommend expansion, additions, or modifications in the proposed design team for the preparation of the PD Approval Plan.
- (e) The City shall determine the extent of any environmental assessment or traffic analysis to be included with the PD Approval Plan.

SECTION 7.231 PD APPROVAL PLAN

- (1) After receiving approval in principle of the **PD Conceptual Plan**, the Applicant shall have a **PD Approval Plan** prepared by a professional design team in such design-related fields as Architecture, Landscape Architecture, Urban Planning, and Civil Engineering.
- (2) An application for a **PD Approval Plan** shall request a Conditional Use Hearing in conformance with **Section 2.500**. Submittal of 15 copies of the Approval drawings and program to the City for review on 8 1/2 x 11 inch or 11 x 17 inch color or black & white reproducible paper for distribution and review. Larger drawings may also be submitted for the public hearing and for detailed analysis by the City. The **PD Approval Plan** shall be submitted to the City at least 30 days prior to the date of the scheduled Public Hearing.
- (3) Upon receipt of the **PD Approval Plan**, the Planning Commission and City Council shall hold a single joint Public Hearing in accordance with the provisions of **Section 3.510**. The Mayor and City Council will conduct the Hearing with participation and recommendation from the Planning Commission. At the public hearing the applicant shall present the **PD Approval Plan**.
- (4) **Plan Elements.** In addition to the Application requirements of **Sections 2.130 & 2.140**, the **PD Approval Plan** shall contain the following elements:
 - (a) A complete site development plan in general conformance with the approved Conceptual Plan.
 - (b) Existing and proposed topographic contour map of the site to a scale commensurate with the size of the development.

- (c) Location, widths, and names of all existing or platted streets or other public ways, railroad and utility rights-of-way, parks, or other public open spaces and land uses within 300 feet of the development.
- (d) Existing sewers, water mains, and other underground facilities within and adjacent to the development and their certified capacities.
- (e) Proposed location and capacity of proposed sewers or other disposal facilities, water mains and other underground utilities.
- (f) Proposed system for the accommodating storm drainage.
- (g) A Subdivision Tentative Plan in conformance with **Section 2.300**, if the property is proposed to be subdivided as part of the Planned Development request.
- (h) A land use plan indicating the uses planned for the development.
- (i) Areas proposed to be dedicated or reserved for interior circulation, public parks, playgrounds, school sites, public buildings, or other uses dedicated or reserved to the public, if any.
- (j) Open space that is to be maintained and controlled by the owners of the property or maintained and controlled by a Homeowners Association and the proposed uses thereof.
- (k) A traffic flow map showing the circulation pattern within and adjacent to the proposed development.
- (l) Location and dimensions of bikeways, pedestrian walkways, malls, trails, or easements.
- (m) Location, arrangement, number and dimensions of automobile garages and parking spaces, width of aisles, bays, and angle of parking.
- (n) Location, arrangement, and dimensions of truck loading and unloading spaces, if any.
- (o) Preliminary architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, appearance and number of dwelling units.
- (p) A preliminary tree planting and landscaping plan. All existing trees over six (6) inches in diameter and groves of trees shall be shown. Trees to be removed by the proposed development shall be so identified.
- (q) The approximate location, height, materials of all walls, fences, and screen plantings. Elevation drawings of typical walls and fences shall be included.

- (r) The stages, if any, of development construction. Such stages shall be clearly marked on the **PD Approval Plan**.
- (5) **Program Elements.**
 - (a) Narrative statement of the intent, purpose and proposed amenities to be provided in the proposed Planned Development.
 - (b) An environmental assessment if requested by the City during review of the **PD Conceptual Plan**.
 - (c) Tables showing the total number of acres and the percentage of the total area that is proposed for each type of use including dwelling types, off-street parking, streets, parks, playgrounds, schools, and open spaces as shown on the proposed development plan.
 - (d) Tables showing the density of the proposed residential developments showing density by dwelling types including a comparison with the specified Code densities and an overall density for the proposed Planned Development.
 - (e) Drafts of appropriate restrictive covenants and drafts of documents providing for the maintenance of any common open space, or required dedications or reservations of public open spaces and of any dedications of development rights.
 - (f) A schedule indicating when roads, utilities and drainage facilities intended to serve the development are to be installed. If the development is to be constructed in stages, the intended schedule of events.

SECTION 7.232 DECISION AND FINDINGS

A single joint public hearing by the Planning Commission and City Council is recommended and may be utilized in conformance with **Section 3.510 (3)**.

- (1) **Planning Commission Decision.** The Planning Commission, following the close of the public hearing in accordance with the provisions of **Section 3.510(3)** shall meet in deliberation may recommend to the City Council approval, denial or approval with conditions for the proposed **PD Approval Plan**.
- (2) **City Council Decision.** The City Council, after the close of public hearing in accordance with the provisions of **Section 3.510(3)** and after receiving the recommendation from the Planning Commission on the proposed **PD Approval Plan** shall either approve the application, deny the application or approve the application with conditions.
- (4) Approval of the **PD Approval Plan** includes approval of all attached drawings, the program and other submitted elements including a Subdivision Tentative Plan and all Conditions of Approval.

- (5) **Decision Criteria.** The recommendation of the Planning Commission and decision by the City Council shall be based upon the following findings:
- (a) That the proposed PD Approval Plan is in conformance with the intent of the City's Comprehensive Plan.
 - (b) That exceptions from the standards of the underlying Zoning District are warranted by the design and amenities incorporated in the proposed **PD Approval Plan**.
 - (c) That the proposed Planned Development is consistent with the purpose and intent of the Primary Zoning District.
 - (d) That adjacent properties are protected from potential adverse impacts resulting from the proposed development by appropriate controls and development standards.
 - (e) That the proposed Planned Development, or a phase thereof, can be substantially completed within Two (2) years of final approval unless a longer period is approved or an extension is approved.
 - (f) That the streets are adequate to support the anticipated traffic and that the development will not overload the streets outside the Planned Development.
 - (g) That the proposed utilities and drainage facilities are adequate for the population densities and type of development proposed and will not create drainage or pollution problems outside the Planned Development.
 - (h) That the timing of installation of utility and drainage facilities will be closely coordinated with development construction and will not create a hardship to residents either within or outside the Planned Development.
 - (i) That the proposed density for the proposed Planned Development will not result in any substantial negative impact on public facilities or utilities.

SECTION 7.241 APPROVED PLANNED DEVELOPMENT

- (1) Following approval of the **PD Approval Plan** by the City Council, the applicant shall make all required changes in the **PD Approval Plan** to comply with any Conditions of Approval and submit it to the City Administrator for verification of compliance with the approved **PD Approval Plan** and the Conditions of Approval applied by the City.
- (2) If the approved **PD Approval Plan** is found to be in compliance with the approval conditions, it shall be so certified by the City Administrator and placed in the **Record File** of the Application as the "**Approved Planned Development for (Name of the Development)**" for the specified property along with all documents relating to dedications, improvements, agreements, restrictions, and associations.

- (3) The Subdivision procedures set forth in **Section 2.320** shall be followed and included in the **Record File** if the property is to be divided or streets are to be dedicated unless private street exceptions have been approved by the City.
- (4) All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be certified and placed in the **Record File** prior to the issuance of any building permit.
- (5) Final copies of all approved articles governing operation and maintenance shall be placed in the **Record File** prior to the issuance of any building permit.
- (6) The **Approved Planned Development** noted on the official zoning map as PD-(Number). All building permits shall be issued only in conformance with the Approved Planned Development recorded in the **Record File**.

SECTION 7.242 AGREEMENT & SECURITY

In accordance with **Sections 8.510, 8.520 and 8.600** the owner of the Approved Planned Development shall file with the City an Agreement and Security between the Owner and the City to assure full and faithful performance of the Approved Planned Development.

Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover all costs to complete the work and recover the City's full cost and expenses, together with court costs and attorney fees. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 8.100 (5)**.

If the Owner fails to carry out the provisions of the Agreement within the period specified and the City has costs or expenses resulting from such failure, the City shall call on the Security for reimbursement. If the Security exceeds the cost and expense incurred by the City, the City shall release the remainder. If the Security is less than the cost and expense incurred by the City, the Owner shall be liable to the City for the difference.

SECTION 7.243 CHANGES IN APPROVED DEVELOP PLAN

- (1) **Major Changes:** Major changes in the Approved Planned Development after it has been adopted shall be considered a new petition and shall comply with the procedures for adoption.
- (2) **Minor Changes:** Minor changes in the Approved Planned Development may be approved by the City Administrator, provided that such changes:
 - (a) Do not change the character of the development or the density.
 - (b) Do not change the boundaries of the PD Area.
 - (c) Do not change any use, such as residential to commercial.
 - (d) Do not change the development configuration or the total amount of land devoted to a specific land use.

- (e) Do not relax dimensional standards or other specific requirements established by the City as a Condition of Approval.

SECTION 7.244 EXPIRATION

- (1) If substantial construction or development has not taken place within two (2) years of the date of final acceptance of the Approved Development Plan or within the time designated in the approval, the City Administrator shall review the status with the owner and make a report on the findings to the Planning Commission and City Council with a recommendation on a time extension.
- (2) Upon abandonment of a particular Planned Development, or if its development has not been substantially completed within the time specified in the Approved Planned Development, the City may schedule public hearings to remove the Approved Planned Development designation unless a request to extend the time limit is approved.
- (3) The procedure for removal of an Approved Planned Development is essentially the same as for adoption. The decision shall be reviewed at a public hearing of the Planning Commission and City Council to determine whether or not continuation in whole or in part is in the public interest.. The City Council may either maintain the Approved Planned Development, revoke the Approved Planned Development approval, or grant a time extension if it appears justifiable. If the Approved Planned Development is repealed, further use of the property and future structures thereon shall be in accordance with the existing Primary Zoning District.