

CHAPTER 11.21
PLANNED DEVELOPMENT (PD)

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11.21.010 PURPOSE. The purpose of the planned development chapter is to provide a degree of flexibility and innovative land use design and development not possible under a strict interpretation of zoning and subdivision ordinances. It is the intention of the planned development chapter to accomplish the

following specific goals through the use of improved techniques and design technology:

(a) Encourage creativity in the design of large parcels of property for residential use.

(b) Encourage the development of a variety of housing types to better serve the public.

(c) Provide for maximum efficiency in the design and construction of streets, utilities and other public improvements.

(d) Provide the necessary standards and controls to be used by developers in their design and by county officials in their review and approval procedures.

(e) Allow specific acreage within a planned development to be reserved and used for commercial horticultural purposes; provided, that such use is not inconsistent with the other permitted uses within a planned development and the undertaking of such activities are consistent with the conditions set forth in the approved site plan for the planned development.

(f) Enhance the local and regional agricultural economy and protect the rural character of unincorporated Benton County by allowing commercial horticulture on specified acreages within planned developments located in areas having unique and valuable physical characteristics suitable for horticultural activities such as micro-climate, slope, exposure, water availability and soils capability.

[Ord. 611 (2018) § 81]

11.21.020 WHERE PERMITTED. Planned developments shall be permitted in any zone except Heavy Industrial (H-I) and Light Industrial (L-I).

[Ord. 611 (2018) § 82]

11.21.030 USES PERMITTED. In a planned development district, no building or premises shall be used nor shall any building or structure hereafter be erected or altered unless otherwise provided in this chapter, except for one or more of the following uses:

- (a) One and two family dwellings.
- (b) Multiple family dwellings such as flats or apartments.
- (c) The usual accessory buildings and/or land uses commonly appurtenant to the above uses, including but not limited to private kennels.
- (d) Home occupations that comply with the criteria set forth in Chapter 11.49 BCC.
- (e) Recreational facilities of a non-commercial nature including but not limited to tennis courts, swimming pools, playgrounds, etc.
- (f) Designated Manufactured homes and modular homes; provided, that:
 - (1) All dwelling construction in a planned development shall be placed on a permanent foundation, shall have all wheels and running gear removed and shall be placed on the assessor's tax rolls as real property.
 - (2) Size, type and locations for all designated manufactured homes and modular homes shall be shown on the filed plans.
 - (3) Manufactured (mobile) home parks and recreational vehicle parks shall not be considered planned developments.
- (g) Accessory uses such as, but not specifically limited to, schools, churches, libraries, community halls, etc., may be allowed where such facilities are found by the Board of County

Commissioners to be consistent with the comprehensive plan and in the best interest of the community.

(h) Incidental commercial and retail uses, designed as part of the planned development and intended to serve primarily the residents of the development may be permitted for planned developments greater than twenty (20) acres in size. No commercial or retail uses area allowed that require a marijuana processor or retailer license from the Washington State Liquor and Cannabis Board.

(i) Horticultural uses as approved by the Board of County Commissioners at the time of the preliminary plat approval, subject to the terms and conditions as deemed appropriate and in the best interests of the planned development; provided, that commercial horticultural uses shall be subject to the following:

(1) The underlying zoning designation and the comprehensive plan allow commercial horticultural uses in the proposed planned development area;

(2) The types of horticultural uses proposed within the planned development shall be recorded with the deeds for the parcels on which commercial horticultural uses are conducted and on the face of the final plat for the planned development; and,

(3) The proposed commercial horticultural uses must be compatible with the residential nature of the planned development as demonstrated through the use of site planning techniques and mitigation measures. Such measures may include, but are not limited to: the use of open space buffers, visual screening and noise attenuation devices, site plan orientations relative to prevailing wind patterns as well as resident versus farming access and transportation routes, irrigation run-off control, operational measures and best management practices, and limitation on crop types.

(j) Hotel/conference centers may be allowed by conditional use permit provided, that such facilities are found to be consistent with the comprehensive plan and in the best interests of the planned development community. Such uses are also subject to any conditions and terms set forth by the conditional use permit. [Ord. 611 (2018) § 83]

11.21.040 DESIGN STANDARDS AND CRITERIA.

(a) Minimum Site Development Area - A planned development for strictly residential use shall consist of a minimum of five (5) acres. A planned development with designated uses in addition to residential uses shall consist of a minimum of twenty (20) acres.

(b) Allowable Development Density - The maximum allowable density for a planned development shall be the allowable density for that area set forth in Title 16 of the Benton County Code.

(c) Common Open Space - Each planned development shall identify any areas for common use of all the residents. Any anticipated improvements to the common areas shall be included in the information submitted to the planning commission for preliminary approval.

(d) Public Access - Any parcel of property considered for planned development must front on and have direct access to a public road at a minimum of one location. The county engineer may require more than one direct access to a public road where it is determined to be in the best community interest.

(e) Roads and Parking Areas - The interior road system for a planned development may be private if desired by the developer; provided, that roads which are located such that they could or should be an integral part of the overall county circulation pattern may be required to be constructed as public roads. The county engineer may also require either construction of additional public roads or reservation of right-of-way for future roads where necessary in his/her opinion to permit adequate circulation.

Roads construction standards shall be as follows:

(1) Private roads shall be constructed to a standard agreed on between the developer, County Engineer and the County Fire Marshal, based on degree of service necessary for minimum safe circulation for residents and emergency vehicles.

If agreement cannot be reached between the developer, County Engineer, and County Fire Marshal, minimum plat street standards as set forth in BCC 9.09.040, as currently in effect or as hereafter amended, shall apply.

(2) All public roads in a planned development shall be constructed in accordance with minimum standards for plat street construction as set forth in BCC 9.09.040, as amended.

Planned developments shall provide a minimum of two off-street parking spaces for every living unit. Additional off street parking shall be required if non-residential uses are proposed.

(f) Structure Setbacks - Required minimum setbacks for structures in a planned development shall be as follows:

(1) Fifty-five (55) feet from the centerline of any public road or twenty-five (25) feet from the property line, whichever is greater.

(2) Twenty-five (25) feet from the exterior boundary line of the development.

(3) Setbacks from private roads shall be adequate to assure safe sight distance and safe access on and off the road.

(4) Fences may be constructed on the property line except that any fence built within the setback area along a public or private road shall be no more than forty-two (42) inches in height.

There shall be no minimum required side or rear yard setbacks or minimum distances between buildings within the interior of a planned development.

(g) Sanitary and Water Facilities - Details of proposed sanitary and water facilities shall be as required by the Benton-Franklin Health District. Written approval by the health district and any municipality providing services of the proposed type of sanitary and water facilities shall be submitted to the planning and building department with the application for the planned development.

[Ord. 611 (2018) § 84]

11.21.050 APPLICATION--REQUIREMENTS. Any owner or group of owners who wish to apply for a planned development shall submit the following information for preliminary review:

(a) A Planned Development application form with all requested information and signatures.

(b) One copy of a vicinity map showing the location site and its relationship to the surrounding area. Vicinity map should show the surrounding existing development for a distance of five-hundred (500) feet from the perimeter of the development.

(c) Ten (10) copies of the preliminary plat for the planned development not less than twenty-four inches by thirty-six inches (24" x 36") in size, showing the following information and drawn to scale of not less than one (1) inch equal to one-hundred (100) feet and one eleven-inch by seventeen-inch (11" x 17") reproducible copy:

(1) Names and dimensions of streets bounding or touching the site.

(2) Location and dimensions of all interior roads and pedestrian walkways.

(3) Existing topography with contours of five (5) feet intervals.

(4) Proposed plans for grading and proposed methods for handling drainage, including irrigation water.

(5) Proposed buildings for development, including location, size, type and number of dwelling units in each.

(6) Proposed off-street parking facilities.

(7) Areas of common open space and improvements proposed for each area.

(8) Proposed locations of water lines, electric and telephone lines, sewer lines, and any other utilities to be located in the development.

(9) Any other major features such as streams, canals, railroads, major easements or natural features which may affect or be affected by the development.

(10) Location and types of horticultural uses, the number of horticultural related dwelling units to be located on the horticultural lands, and the site planning and operational measures proposed to assure compatibility between the horticultural uses and the residential uses within the planned development.

(11) Locations and types of hotel or convention centers, including the number of units.

(d) In addition to the required drawings the developer shall submit two (2) copies of a written statement providing the following information:

(1) Program for development including staging and timing of development.

- (2) Proposed ownership agreements for completed development.
- (3) Basic content of restrictive covenants, home owners association by-laws and other documents, including specific provisions guaranteeing construction and/or maintenance of all commonly owned areas and facilities.
- (e) A Zone Change Application form with all required information and signatures requesting a change in zoning to a Planned Development zone.
- (f) An Environmental Checklist form with all required information and signed by the applicant.
- (g) A title certificate from a title company not more than two (2) months old. The title certificate shall include a map showing the tax parcel ID number, names, and addresses of the surface owners of the property to be developed and names of all surface property owners within three hundred (300) feet of the exterior boundaries of the property involved.
- (h) Written verification from the Benton-Franklin Health District that the applicant(s) has provided all necessary information so that the Health District can review and make a recommendation on the proposed planned development.
- (i) A preliminary hydrology report as required by the Benton County Road Department.
- (j) The application fees as specified in the current fee schedule adopted by resolution of the Board of County Commissioners.
- (k) The applicant shall request a waiver or modification of any of the requirements of this chapter where topography or other special conditions make conformance impractical. Such request for waiver or modification shall be made at the time of application

for the planned development and zone change. The waiver or modification shall be granted in accordance with BCC 11.21.180. [Ord. 611 (2018) § 85]

11.21.060 OPEN RECORD HEARING. An open record hearing is required for all Planned Developments. The Benton County Planning Commission shall conduct the hearing on a preliminary application and zone change at the same hearing. [Ord. 611 (2018) § 86]

11.21.070 OPEN RECORD HEARING--NOTICE REQUIRED.

(a) Notice of the open record hearing shall state: the time, place and purpose for which the hearing is to be held. The notice of open record hearing shall be published not less than ten (10) days prior to the hearing in the official newspaper of the county.

(b) The Benton County Planning Department shall mail the notice of the hearing at least ten (10) days prior to the date of the hearing to:

(1) The owners of all properties located within three hundred (300) feet of the exterior boundaries of the proposed plat, as such owners appear on the records of the County Assessor.

(2) If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property adjacent to the real property, notice of hearing shall be mailed to the owner if all parcels are located within three hundred (300) feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

(3) The notice shall also be given to cities or towns located within one (1) mile of the proposed Planned Development.

(4) If a proposed Planned Development is located adjacent to the right-of-way of a state highway or within two (2) miles of the boundary of a state or municipal airport, notice shall be given to the state secretary of transportation.

(5) Notice shall also be given to anyone that has submitted a written request to the Benton County Planning Department of any proposed land use applications for one (1) or more of the parcels within the proposed planned development.

(c) All hearing notices shall include a description of the location of the proposed Planned Development. The description may be in the form of either a vicinity location sketch or a written description but need not include a legal description.

[Ord. 611 (2018) § 87]

11.21.080 PLANNED DEVELOPMENT--PLANNING COMMISSION--CONSIDERATION, FINDINGS, AND RECOMMENDATION. After conducting an open record hearing and considering all information presented, the Planning Commission shall take action to recommend to the Board of County Commissioners that the preliminary planned development and rezone application be approved, approved with conditions that will be incorporated into the final plat to be recorded, or denied as proposed. The Planning Commission shall recommend approval or recommend approval with conditions if it makes each of the following findings:

(a) The proposed Planned Development conforms with the Benton County Comprehensive Plan and any applicable zoning requirements or other applicable land use controls;

(b) The proposed Planned Development provides adequate means of access as evidenced by the written approval of the county engineer;

(c) The proposed Planned Development meets the requirements of this title;

(d) The public use and interest will be served by permitting the proposed planned development;

(e) The appropriate provisions are made for public health, safety, and general welfare and for needed drainage ways, streets, or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

(f) The Benton Franklin Health District has reviewed and approves of the terms of the proposed Planned Development to ensure compliance with Health District rules and regulations;

(g) The Benton County Road Department has reviewed and approved the proposed Planned Development to ensure conformance with the road and drainage provisions of Benton County;

(h) If the proposed Planned Development is located within an irrigation district, that the district has reviewed and approved the proposed Planned Development to ensure compliance with RCW 58.17.310, as currently in effect or as hereafter amended.

(i) If the proposed Planned Development is located within an urban growth area as designated in the Benton County Comprehensive Plan, that the proposed Planned Development is in conformity with the joint development standards for that area, if any, adopted by the County.

[Ord. 611 (2018) § 88]

11.21.090 PLANNING COMMISSION RECOMMENDATION TO BOARD OF COUNTY COMMISSIONERS. The recommendation and findings and conclusion of the Planning Commission will be sent to the Board of County Commissioners within fourteen (14) days following the issuance of the written recommendation.

[Ord. 611 (2018) § 89]

11.21.100 BOARD OF COUNTY COMMISSIONERS--DECISION. The Planning Administrator shall set a date for a closed record hearing upon issuance of the written recommendation, findings and conclusion of the Planning Commission. The Board of County Commissioners will consider the planned development application and may adopt, modify, or reject the recommendation of the Planning Commission. The decision of the Board shall be based on the record prepared by the Planning Commission. The Board shall give preliminary approval of a planned development with any conditions necessary, if it makes an affirmative finding on each issue set forth in BCC 11.21.080(a) through BCC 11.21.080(j) and denial if it makes a negative finding on any of these issues.
[Ord. 611 (2018) § 90]

11.21.110 FINAL PLAT(S)--SUBMITTAL--FINAL REVIEW. Final plat(s) may be submitted for all or any part of a planned development which has received preliminary approval. All final plat(s) for all phases of the planned development review shall be submitted to the Planning Administrator within five (5) years after preliminary approval has been granted. Any part of a planned development for which final approval is requested shall meet all criteria required of the complete development. The information required to be submitted for final review and approval to record a final plat shall consist of the following:

(a) One (1) Mylar and eight (8) copies of the final plat and supplementary materials as specified in Chapter 9.07 BCC and one eleven-inch by seventeen-inch (11" x 17") reproducible copy prepared in accordance with Chapter 9.07 BCC for final plats. The final map shall also contain:

- (1) Location and dimensions of all private and public roads and all areas reserved for parking. Roads and parking areas which are public shall be so identified.
- (2) Identification, location and dimensions of all common open space.

(3) Identification and location of all commonly owned facilities.

(4) Location and dimensions of all structures and identification as to size, type and number of dwelling units.

(5) Identification of any open space or facilities which are to be common to or owned by only part of the residents of the development.

(6) Location and dimensions of all utility right-of-way lines.

(7) Any other major features such as streams, canals, railroads, major easements or natural features which may affect or be affected by the development.

(8) Location and types of horticultural uses, the number of horticultural related dwelling units to be located on the horticultural lands, and the site planning and operational measures proposed to assure compatibility between the horticultural uses and the residential uses within the planned development.

(9) Locations and types of hotel or convention centers, including the number of units.

(b) Two copies of a written statement including:

(1) Final copies of all ownership agreements.

(2) Final copies of restrictive covenants.

(3) Final copies of homeowner's association by-laws and other documents, including those specific provisions guaranteeing construction and/or maintenance of all commonly owned areas and facilities.

[Ord. 611 (2018) § 91]

11.21.120 FINAL PLAT--REVIEW BY AGENCIES. The Planning Administrator shall forward copies of the final plat map to other state and local agencies, municipalities if located in an urban growth area, and utility companies or public agencies that the Planning Administrator determines have an interest in the Planned Development. All reviewing agencies shall have seven (7) days from the date of mailing of such final plat map to forward their comments to the Planning Administrator.
[Ord. 611 (2018) § 92]

11.21.130 FINAL PLAT--REVIEW BY PLANNING ADMINISTRATOR.

(a) The Planning Administrator shall review the final plat map to determine if:

(1) The final plat complies with the requirements of this title,

(2) The final plat is consistent with the approved preliminary plat and decision thereon; and,

(3) All changes and conditions imposed on the approved preliminary plat by the Board have been made and complied with.

(b) The Planning Administrator shall forward the Mylar to the Benton County Engineer, Benton County Planning Commission Chairman, Benton County Assessor, Benton Franklin Health District, and Benton County Treasurer for signature upon determining that the above requirements have been met. The Planning Administrator shall establish a date and time for public meeting with the Board of County Commissioners for review of the final plat.

[Ord. 611 (2018) § 93]

11.21.140 FINAL PLAT--BOARD OF COUNTY COMMISSIONERS--APPROVAL OR DENIAL.

(a) The Board of County Commissioners shall consider the final

plat at a public meeting. The Board shall review the Planning Administrator's recommendation and approve the final plat for recording if the following standards have been met:

- (1) The final plat is consistent with the approved preliminary plat and the decision thereon;
- (2) The final plat includes all of the information required by BCC 9.07.060;
- (3) All changes and conditions imposed on the approved preliminary plat by the Board have been made and complied with; and,
- (4) All applicable requirements of the state platting law and this title have been satisfied.

(b) If the Board determines that these standards have been met, the Chairman of the Board shall sign the final plat and by resolution approve the zone change for that portion of the property included in the final plat. If the Board finds that these standards have not been satisfactorily met, the Board shall deny the final plat and return it unsigned to the applicant for correction.

[Ord. 611 (2018) § 94]

11.21.150 FINAL PLAT--FILING AND RECORDING. The Planning Administrator shall forward the final plat to the Benton County Auditor's Office for recording upon its approval by the Board of County Commissioners and after submission by the applicant of the applicable fee for recording.

[Ord. 611 (2018) § 95]

11.21.160 REQUIREMENTS FOR SPECIFIC PERFORMANCE. The developer shall be expected to show performance toward the completion of the planned development in accordance with the time schedule shown below unless a specific waiver or time extension is granted by the planning department.

(a) All final plans for planned development shall be submitted for approval within five (5) years of receipt of preliminary approval.

(b) The roads within a planned development, both private and public, shall be constructed or bonded by the developer, according to approved plans prior to the submittal of the final plat(s).

Any request for extension of time from the requirements shown in items (a) and (b) above shall be made in writing to the Planning Administrator stating the reasons justifying a consideration for extension. After consideration, the developer shall be notified in writing whether the request has been approved or denied, and the reasons for the decisions. The Planning Administrator may grant a one-time extension for up to one year.

[Ord. 611 (2018) § 96]

11.21.170 MAJOR AND MINOR ADJUSTMENTS.

(a) Minor Changes or Adjustments - Minor changes to a planned development that has received preliminary approval under BCC 11.21.100 may be made with the approval of the Planning Administrator. Minor changes shall mean only those changes which only affect the precise dimensions or location of buildings or facilities, but do not change or affect the basic character or arrangement of buildings, the density of the development or the open space requirement. The Planning Administrator may elect to submit minor changes to the Planning Commission and Board of County Commissioners under the process for major changes set forth in BCC 11.21.170(b).

(b) Major Changes - Those changes which in the opinion of the planning director substantially affect the general design or density of the planned development shall require review by the planning commission and Board of Commissioners. In the event of a major change the planning commission shall hold a public hearing before submitting its recommendation to the Board of County Commissioners. The Board of County Commissioners shall consider

the Planning Commission recommendation at a public meeting and shall approve major changes only if it can continue to make the affirmative findings required by BCC 11.21.080(a) through BCC 11.21.080(j).

(c) Final Plats - Requested changes to the final plat(s) for a Planned Development or portion thereof shall be processed as an alteration to a subdivision pursuant to BCC 9.07.100 or a vacation pursuant to BCC 9.02.120. Any alteration must conform to the requirements of all applicable code provisions.

(d) Building Permits - Building permits shall be issued only for those structures or facilities which are in conformance with the plan as filed or as amended.

[Ord. 611 (2018) § 97]

11.21.180 WAIVER OF REQUIREMENTS. The Planning Commission may recommend to the Board of County Commissioners to waive or modify any requirement of this chapter where topography or other special condition make conformance impractical. In granting such a waiver or modification, the Planning Commission must first determine that the development will remain in substantial conformance with the intent of this chapter. In the event of any waiver or modification of requirements, the Planning Commission minutes shall show the specific requirements for which waiver is granted, and the special conditions and justification upon which the waiver or modification is based. The applicant shall request such waiver at the time of applying for the planned development and zone change.

[Ord. 611 (2018) § 98]

11.21.190 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 611 (2018) § 249]

11.21.200 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]