

**CITY OF OAKLAND
SUPPLEMENTAL
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2004 OCT 14 PM 1:14

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: October 26, 2004

RE: Supplemental Information Pertaining to the Proposed Planned Development Zoning District Procedure Ordinance - Adding Chapter 17.139 to the Oakland Planning Code and making related changes (Recommendation from the Planning Commission)

SUMMARY

At their July 13, 2004 meeting, the CED Committee reviewed and considered an ordinance which establishes Planned Development Zoning Districts (PDZD). Committee Members requested a chart showing the major differences between the existing Planned Unit Development (PUD) ordinance (OMC Chapters 17.122 and 17.140) and the proposed ordinance, the pros and cons of a PUD vs. a PDZD approach and information concerning potential community benefits being provided by a developer using a PDZD. This supplemental report provides the requested information.

The proposed PDZD ordinance creates a process which will allow the City to re-zone site specific areas within the City of Oakland and apply specially drafted zoning regulations to facilitate well-planned and integrated residential, commercial and mixed-use communities on those sites.

Comparison Chart of PUD vs. PDZD

Provision or Issue:	Existing PUD Provisions	Proposed PDZD
What does approval mean?	The PUD is a permit based approval that is considered quasi-judicial. It is not a legislative act that changes the underlying zoning district, standards or requirements. In other words, the underlying zoning remains in place, much like what happens with a conditional use permit.	The PDZD is an actual zoning change – it is a legislative act that would create a specialized set of zoning standards and requirements. The former zone and rules would be eliminated and replaced with the new PDZD rules and standards. An ordinance rezoning the property to PDZD is enacted.

<p>Who has the authority to take action?</p>	<p>The Planning Commission reviews and approves a PUD and their action is final unless it is appealed to the City Council.</p>	<p>The Planning Commission's action is a recommendation to the City Council. The City Council has the final action through the enactment of the ordinance establishing the PDZD.</p>
<p>Can exceptions and variances to the existing zoning ordinance be approved with a PUD or PDZD?</p>	<p>Within the PUD process, exceptions to minimum lot area, width, frontage, height and other yard requirements may be granted (such as setbacks.) All other exceptions to development standards and permitted or conditional uses of the underlying zone must be approved through a variance procedure.</p>	<p>Since this process involves the creation of a new zoning district, all standards, permitted and conditional uses, and other requirements are specifically tailored to the actual development. The draft PDZD ordinance specifies that a PDZD cannot authorize land uses otherwise prohibited by the Oakland Planning Code.</p>
<p>Who can apply?</p>	<p>A property owner(s) or authorized agent.</p>	<p>The draft ordinance provides that application can be made by a property owner or authorized agent, a majority of property owners in the proposed new district, by the City or by the Redevelopment Agency. The Planning Director may also require other land parcels to be incorporated into the proposed district. The application must contain the minimum submittal requirements contained in the ordinance.</p>
<p>What type of information and plans do applicants have to submit?</p>	<p>Application requirements are plan based, similar to most development projects. The preliminary development plan (PDP) requirements present the basic site plan, density, height, uses, building mass, etc. The FDP is similar to the schematic architectural drawings required for design review approval.</p>	<p>Application requirements follow three major steps:</p> <ol style="list-style-type: none"> 1) Application for Rezoning to a PDZD 2) Application for a Preliminary Development Plan 3) Application for a Final Development Plan (may be filed in phases).

<p>What types of development can use this zoning provision?</p>	<p>This tool can be applied to both commercial and residential projects; it is required for commercial projects over 60,000 square feet.</p>	<p>Minimum thresholds have been established in order to use this tool: two acres or 500,000 sf of commercial space or 500 units or 500,000 sf mixed uses.</p>
<p>What are the general time frames that an approval is effective?</p>	<p>Once the PDP and FDP are approved, the time frame for implementation is generally 2-5 years, based upon a required phasing plan. Two one-year time extensions may be granted. The Planning Commission has discretion on the amount of time to complete the project with the approval of the phasing plan.</p>	<p>Once the PDZD is established, specific performance measures are approved as part of the overall District Plan. A nine year total time limit is set forth in the ordinance to complete the development; a performance schedule is also required to establish benchmarks for measuring completion.</p>
<p>What are the major steps in the process?</p>	<p>Preliminary Development Plan (PDP) sets forth the development parameters and the Final Development Plan provides the actual construction and design details that will be reviewed as the building permits are submitted. The PDP and FDP procedures can be combined for consideration at one time.</p>	<p>There is a three step process: PDZD established as a framework for consideration of the future PDP and FDP. This requires City Council approval. The PDP and FDP processes follow a schedule similar to current zoning provisions.</p>
<p>Where are the major points for public involvement?</p>	<p>Public hearings before the Planning Commission are required for the PDP and FDP. Planning Commission action can be appealed to the City Council.</p>	<p>The draft ordinance would expand opportunities for public involvement in comparison with existing requirements. A series of public hearings are required at both the Planning Commission and City Council level at the initial stage of development of the PDZD. Once the District is approved, the PDP and FDP processes require public hearings and meetings before the Planning Commission. The ordinance also includes mandatory community meetings and a longer notification period (20-30 days), along with more noticing requirements.</p>

<p>How are changes or amendments handled?</p>	<p>Minor amendments approved at a staff level; major amendments approved by the Planning Commission. The Commission's action may be appealed to the City Council.</p>	<p>An amendment to a PDZD ordinance would need to be reviewed by the City Council as a revision to the original enacting ordinance. PDP and FDP amendments are considered by the Planning Commission.</p>
<p>Once approved, how is the City's authority restricted or qualified?</p>	<p>The PUD provides a specific framework to implement the actual development. The FDP approval standard is essentially whether it is consistent with the PDP. The time frame for a PUD is generally within 3 to 5 years, with two one year extensions allowed.</p>	<p>The PDZD would legislatively entitle the project sponsor to use uniquely developed land use and design standards to complete a project. Each PDZD established would be enacted through a separate ordinance. Any major change would need to go through an ordinance revision process. If not implemented, the authorization for the PDZD would expire after three years if no building plans were approved and no extensions of time were filed.</p>

Community Benefits. The issue has been raised about what type of community benefits could be required of a PDZD applicant. Given that the PDZD procedure would involve a legislative act or rule change, the City Council is under no obligation or pre-established framework to approve the project. In effect, the City Council has complete discretion to approve or disapprove the PDZD. There are no findings or other reasons necessary to reject a PDZD; however, the City Council must make certain findings to support a PDZD approval. Therefore, staff believes that the City Council has a good deal of discretion to require community benefits on a case-by-case basis. In particular, those benefits that further broader City planning goals and policies likely would be most applicable. For instance, if the City has established the objectives of constructing park or streetscape improvements in the vicinity of a proposed PDZD, the approval requirements could include a greater area within which these improvements would be made, rather than just the property street frontage. In this way, a greater community benefit is provided.

Within this context, the question has been raised regarding the kinds of community benefit provisions that should be included in the enabling ordinance. One approach would be to ask for the project sponsor's perspective on the types of community benefits that would result if the PDZD were to be approved. This information could be provided to the Planning Commission and the City Council as part of the application materials. Another approach would be to include a finding that would confirm that community benefits had been considered as part of the City's review. Given the unique nature of this

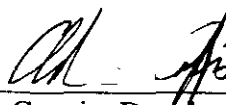
tool, it is difficult to prescribe a set of community benefits that would be applicable in all cases.

PUD vs. PDZD The PUD and the proposed PDZD should not be viewed as competing tools, but rather as complimentary planning approaches that may each be appropriately applied in a given context. As noted, the PDZD is intended for a larger scale project meeting certain minimum size and intensity thresholds. The PDZD provides an early policy check-in with the City Council, which can provide direction to both the project sponsor and to staff. This early approval step by the Council is important because it confirms the overall planning policies and objectives for a large scale development, thereby providing certainty to the project sponsor as plans are developed and major investments are made in the project. The community participation process is broader and more rigorous with the PDZD, given the land use policy changes that are anticipated. There is a larger notice area required and a mandatory community meeting. Finally, the PDZD provides more flexibility in developing new standards and requirements, rather than using the underlying zoning district as a basis. Quite often in large scale, comprehensive, integrated master plan projects the underlying zoning district has marginal relevance.

ACTION REQUESTED OF THE CITY COUNCIL

To adopt the ordinance entitled "An Ordinance Adopting Oakland Planning Code Chapter 17.139 (Planned Development Zoning District Procedure) and Making Related Changes to Oakland's Master Fee Schedule and Chapter 17.152 (Enforcement).

Respectfully submitted,



Claudia Cappio, Development Director
Community and Economic Development
Agency

APPROVED AND FORWARDED TO
THE CED COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

Under separate cover (printed October 2, 2004): July 13, 2004 PDZD staff report, draft ordinance and Planning Commission staff report dated June 2, 2004