



# CITY OF LEBANON

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## **Lebanon Municipal Code Title 16: Development Code**

### **Article Four: Land Use and development Reviews, Decision Requirements and Procedures**

## **Chapter 16.23: Planned Developments**

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# Chapter 16.23: Planned Developments

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# CHAPTER 16.23: PLANNED DEVELOPMENTS

## 16.23.010 INTRODUCTION TO PLANNED DEVELOPMENTS

### ***A. Purpose of the Planned Development***

The purpose of the Planned Development (PD) is to provide opportunities to create more desirable environments through the application of flexible and diversified land development standards under a professionally prepared comprehensive development plan (overall site design, maps and drawings) and program (narrative and explanatory documents). The purpose of the Planned Development process is to:

1. Encourage the application of new techniques, new technology, and development that will result in sustainable living or development arrangements.
2. Achieve efficiency in land development, maintenance, street systems and utility net works while providing building groupings for privacy, useable and attractive open spaces, safe circulation and the general well being of the inhabitants.
3. Implement the Comprehensive Plan and applicable Land Use Zone(s) by providing a means for planning large development sites.
4. Encourage innovative planning that results in projects that benefit the community.
5. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments.
6. Facilitate the efficient use of land.
7. Promote an efficient arrangement of land use, buildings, circulation systems, open space, and utilities.
8. Preserve to the greatest extent possible the existing landscape features and natural features that may not otherwise be protected through conventional development.
9. Encourage energy conservation and improved air and water quality and.
10. Assist the City in planning infrastructure improvements.

### ***B. Establishment of a PD in Combination with a Base Zone***

A Planned Development may be established in combination with any underlying base zone. In cases of conflict between standards of the base zone and the PD, the standards of the PD may apply, provided the Planning Commission finds that an exception from the standard of the underlying zone is warranted by the design and amenity provisions in the Planned Development Design and Program, and there are no identified negative impacts to the surrounding neighborhood or the community as a whole after mitigation.

### ***C. Phased Development***

Phasing of development may be approved with the PD application, subject to the following standards and procedures.

A phasing plan shall be submitted with the PD application.

1. The Planning Commission may approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 10 years without reapplying for PD Approval.

2. Approval of a phased PD proposal requires that the public facilities required to serve each phase are constructed in conjunction with or prior to each phase.
3. An application for phasing may be approved after PD approval as a modification to the approved plan, in accordance with the procedures for modifications (Chapter 16.24).

#### **D. Expiration of an Approved Planned Development**

See Subsection 16.20.070.J (Chapter 16.20).

#### **E. Applicability**

A Planned Development may be approved in any of the City's Land Use Zones.

1. An applicant may elect to develop a project as a Planned Development in compliance with the requirements of this Chapter.
2. Planned Development applies to all development in the City identified for such review in this Code (see the following in LDC Chapters 16.05 – 16.10: Table 16.05-1, Table 16.06-1, Table 16.07-1, Table 16.08-1, Table 16.09-1, and Table 16.10-1).
3. In addition, the City may require that the following types of development be processed as Planned Developments using the provisions of this Chapter:
  - a. Mixed development, integrated either horizontally or vertically (e.g., a mix of land uses such as residential and commercial on one site).
  - b. Any development proposal that includes a site that had been subject to a Zoning Map Amendment in the two years prior to the submittal date of the development proposal application.
  - c. Any development proposal that requires an exception to or amendment of an Adopted Facility Master Plan, including the Transportation System Plan.
  - d. Any development proposal potentially causing adverse impacts to land in public ownership or developed for a public use that could result in the loss of public use, the loss of some public opportunity, or the conversion of a previous public facility.
  - e. Any development proposal of 1 acre or more in size that is in a 100 year flood plain or is on a steep slope (i.e., 15% or greater).

#### **F. Benefits, Advantages and Opportunities**

1. **Flexibility and Efficiency:** The Planned Development (PD) review provides a process that is flexible and responsive to development proposals that may be unique, innovative, and/or complex. The PD review is designed to be an extremely efficient review process even when projects may be unusually challenging in scope and vision.
2. **Modifications of Zoning Standards and Community Development and Use Standards:** Development standards (such as Lot Size and Width, Heights) in LDC Article Two (LDC Chapters 16.05 – 16.11) and the Community Development and Use Standards of Article Three (LDC Chapters 16.12 – 16.19) may be modified [up to 25% of the standard] through the Planned Development review process without the need for a Variance. However, Industrial and Commercial uses, if not otherwise allowed in a Residential Zone, shall not be allowed as part of a Planned Development in a Residential Zone.

**3. Reasons for Selecting the PD Process:** There are a number of reasons why the PD process may be desirable and applicable, such as: (1) the large area of the development; (2) sensitivity of the development area (e.g., steep slopes); (3) atypical ownership and/or management considerations; (4) magnitude of project impacts; (5) a need for greater procedural flexibility and diversity; and, (6) to permit development proposals not explicitly listed in this Code. A PD review can be voluntarily selected by an applicant, may be mandated by the provisions of this Code, or determined by the City as the most appropriate review process.

**4. A PD may occur in any zone.**

**5. Two Step Process:**

The PD process is a two step process, in which there are three options or alternative paths for the second step.

- a. The First Option or path includes an initial Public Hearing and a subsequent Ministerial Review. If sufficient detail and sophistication of design are included in the initial or Preliminary Design and Program, a PD application may be approved with a Public Hearing before the Planning Commission, followed by a Ministerial Review by the Planning Official of the Final Design and Program that checks for compliance with conditions of approval established by the Planning Commission.
- b. Second Option: Other PD applications that need further work and modification after the initial Public Hearing in order to meet the Planning Commission's conditions of approval may have their Final Design and Program reviewed for compliance by the Planning Official in an Administrative Review.
- c. Third Option: Some PD applications may need major or extensive additional work and modification after the initial Public Hearing in order to meet the Planning Commission's conditions of approval; the Final Design and Program of such applications may be reviewed for compliance in a second Public Hearing before the Planning Commission.

## **G. PD Terminology**

1. **Basic Land Use Request:** The essential elements of the development request, such as a subdivision layout, the siting of a large commercial or industrial building, or a complex of mixed development buildings (residential and commercial), or a multi-family complex.
2. **Planned Development Design:** The overall PD site design, maps and drawings.
3. **Planned Development Program:** The PD narratives, explanatory documents, technical studies, and mitigation plan.
4. **Preliminary Design and Program:** The initial PD proposal reviewed by the Planning Commission in a public hearing ("Step 1").
5. **Final Design and Program:** The revised or modified PD proposal submitted by the applicant to meet the Planning Commission's conditions of approval established in "Step 1."

6. **Adverse Project Impacts:** Adverse project impacts are effects that are detrimental to the health, safety, and general welfare of local residents, the neighborhood, the community and natural environment. Adverse project impacts may include, but are not limited to: operating and/or traffic noise, vibration, glare, heat, electromagnetic interference, smoke, waterborne contaminants, airborne particulates, or atmospheric contaminants (e.g., hazardous or toxic levels of airborne substances or chemicals). Determinations may be based on degradation of such measures as service levels, volumes/capacities (e.g., pre- versus post-development runoff rates) in City's adopted Master Plans. (Also see Glossary for "Negative Impacts.")
7. **Mitigation (or to Mitigate):** To avoid, rectify, repair, or compensate for negative impacts that result from other actions, such as land use development.
8. **Mitigation Plans (and Measures):** The plans and measures developed by an applicant to effectively and proportionately mitigate those adverse impacts (attributable to the Planned Development) experienced by surrounding properties and residents, the neighborhood, and in some cases the City as a whole.
9. **Preliminary Mitigation Plans (and Measures):** The mitigation plans and measures submitted as part of the Planned Development Preliminary Design and Program that are reviewed in "Step 1" of the process, a public hearing before the Planning Commission.
10. **Final Mitigation Plans (and Measures):** The mitigation plans and measures submitted as part of the Planned Development Final Design and Program that are reviewed in "Step 2" of the process, and that must address all applicable issues and concerns established as conditions of approval for the Planned Development by the Planning Commission in "Step 1."

## **H. Overview of the Two Step Process**

As shown in **Figure 16.23-1**, a Planned Development review is a two step process. "**Step 1**" is a public hearing conducted by the Planning Commission that reviews the Preliminary PD Design and Program involved in the Basic Land Use request. The Preliminary PD Design and Program includes the Overall Design Elements and Mitigation Plan, as well as all narratives, explanatory documents, and technical studies. "**Step 2**" may result in the approval of the Final PD Design and Program (Overall Design Elements and Mitigation Plan, as well as all narratives, explanatory documents, and technical studies). This Second Step assesses compliance with the Conditions of Approval established by the Planning Commission in "Step 1." An overview of this two step process follows below.

### **1. Step 1: Public Hearing -- Review of Preliminary PD Design and Program**

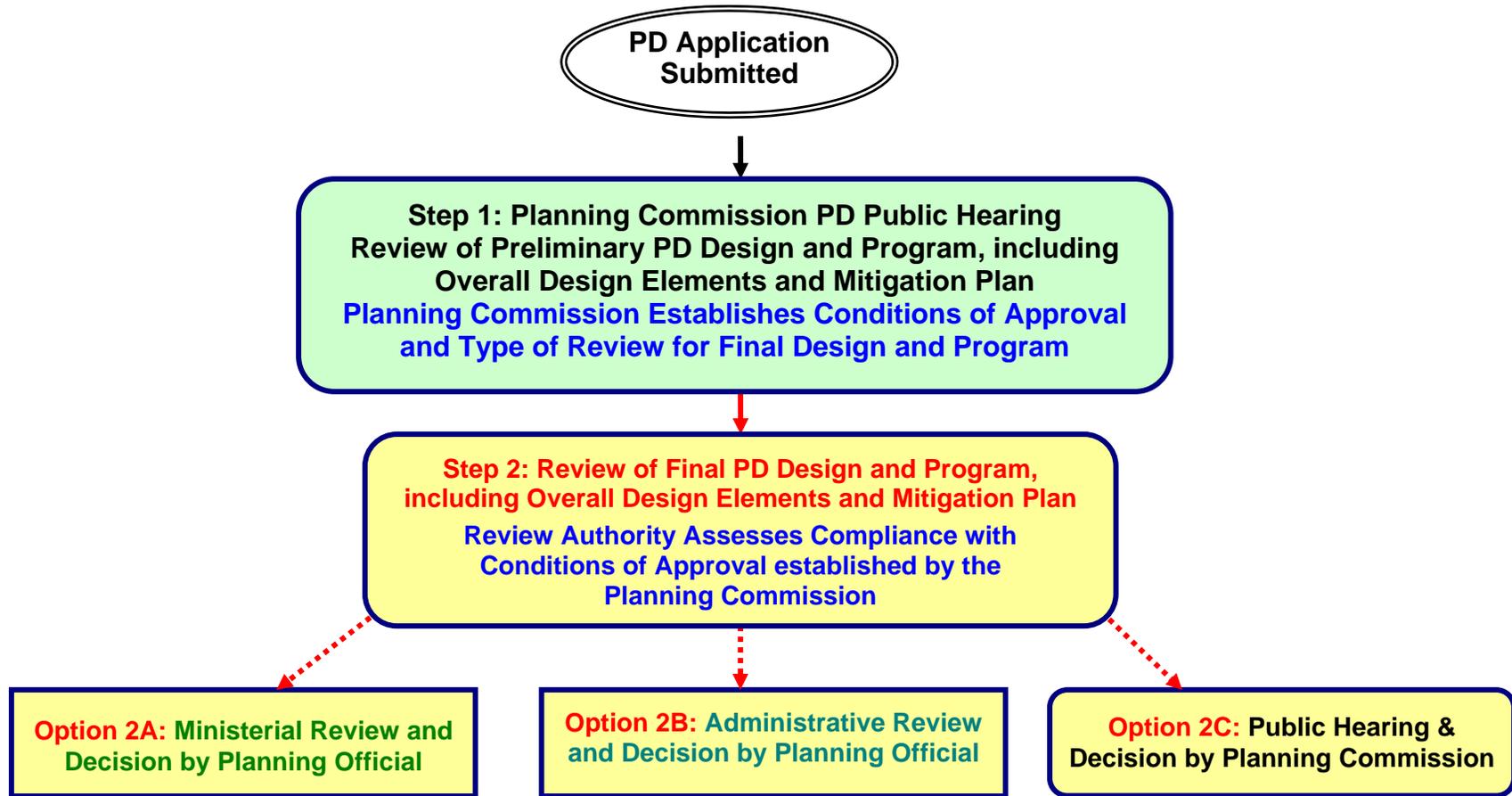
- a. The First Step in the Planned Development process begins with a quasi-judicial public hearing conducted by the Planning Commission. This Step reviews the Preliminary PD Design and Program, including the Overall Design Elements and Mitigation Plan, as well as all narratives, explanatory documents, and technical studies (See Chapter 16.20 for review procedure). An approval at this level establishes the general validity of the proposed Design and Program, and grants approval of the Basic Land Use request involved in the Planned Development application.

- b. During the review of the Preliminary PD Design and Program, the Planning Commission establishes the conditions of approval that the Final PD Design and Program must meet to merit final approval in Step 2., The Planning Commission may take the following actions regarding the Preliminary PD Design and Program:
  - (1) Accept and approve the Preliminary PD Design and Program as submitted, or with very minor refinements.
  - (2) Approve the Preliminary PD Design and Program with Modifications.
  - (3) Direct the applicant to revise the Preliminary PD Design and Program to satisfy the requirements of the Code.
  - (4) The Planning Commission may deny a PD application based on the decision criteria.
- c. The Planning Commission shall also determine the type of review in “**Step 2**” of the Final PD Design and Program, from the following options (see Chapter 16.20 for relevant review procedures):
  - (1) Review by the Planning Official as a Ministerial Review [Option 2A].
  - (2) Review by the Planning Official as an Administrative Review [Option 2B].
  - (3) Review by the Planning Commission in a subsequent public hearing [Option 2C].

**2. Step 2: Review of Final PD Design and Program – Three Options**

- a. After Planning Commission review and action on a Preliminary PD Design and Program (in Step 1), the applicant submits a Final Design and Program that is then reviewed by the designated review process and authority established by the Planning Commission in Step 1.
- b. “**Step 2**” may result in the approval of the Final PD Design and Program (Overall Design Elements and Mitigation Plan, as well as all narratives, explanatory documents, and technical studies). This Second Step assesses compliance with the Conditions of Approval established by the Planning Commission in “Step 1.” Successful compliance will result in approval of the PD application.
- c. The review of the applicant’s Final Design and Program requires a separate submittal, fee and process.
- d. The Review of the Final PD Design and Program shall follow the appropriate procedural provisions of Chapter 16.20. As noted previously, the designated review process and authority shall be one of the following:
  - (1) **Option 2A:** Review by the Planning Official as a Ministerial Review.
  - (2) **Option 2B:** Review by the Planning Official as an Administrative Review.
  - (3) **Option 2C:** Review by the Planning Commission in a subsequent Public Hearing.

Figure 16.23-1: The Planned Development (PD) Review Process



# ***I. Overview of Mitigation Plans***

## **1. Introduction**

- a. Many, if not most, land development projects have some adverse impacts. The standards and requirements in this Code are intended to buffer and minimize the adverse impacts that can normally be expected to result from most development activity.
- b. Planned Developments may have adverse impacts that are not typically associated with activities routinely permitted in a Land Use Zone, or are extensive or unique, and/or exceed current facility specifications anticipated in City Facility Plans, and thus require a more rigorous review process and mitigation of the impacts.
- c. The Mitigation Review procedures in this Chapter are directed at these types of developments with unique, excessive and/or extensive adverse project impacts. Such adverse project impacts require correspondingly more rigorous and unique mitigation measures and strategies.

## **2. Purpose**

The Mitigation Review process, as an integral part of the Planned Development Review, has several key purposes:

- a. To assure that adverse impacts associated with a land use permitted by a Planned Development Review will be effectively addressed through the overall review process.
- b. Protecting the health, safety, and general welfare of the community and its natural environment.
- c. Providing a clear path for land use review that is not encumbered by unnecessary obstacles.
- d. Providing clear and ample opportunities for citizen participation.

## **3. Project Impacts**

- a. If the proposed land use can reasonably be expected to generate adverse project impacts, the applicant must demonstrate effective mitigation measures proposed to be implemented to mitigate or nullify the adverse project impacts and to achieve compliance with applicable local, State, or federal regulations, and specific conditions of land use approval.
- b. Adverse project impacts may include, but are not limited to, the following examples: operating and/or traffic noise, vibration, glare, heat, electromagnetic interference, smoke, waterborne contaminants, airborne particulates, or atmospheric contaminants (e.g., hazardous or toxic levels of airborne substances or chemicals).
- c. Such typical adverse project impacts represent nuisance characteristics or effects that might potentially be detrimental to the health, safety, and general welfare of local residents, the neighborhood, the community and natural environment.
- d. Effective and complete implementation of the approved mitigation measures, plans, and strategies is a fundamental condition of Basic Land Use approval.
- e. If the proposed land use can reasonably be expected to generate adverse project impacts, a Planned Development must have an approved Mitigation Plan in order to be approved.

## **4. When Mitigation is Not Required**

If in Step 1 the Planning Commission determines, after weighing all the evidence, materials, and testimony presented by staff, the applicant, and other interested parties), that a proposed PD can reasonably be expected to NOT generate adverse project impacts that need to be addressed by a formal mitigation plan, and the Planning Commission establishes as a condition of approval that the submittal of a formal mitigation plan is NOT required, the applicant need not submit such a plan as part of the Final Design and Program.

## 5. Requirements for Mitigation Measures and Plans

A fundamental part of the Planned Development Program is a mitigation plan or plans, in addition to narratives, explanatory documents, and technical studies. It may also be the case that certain elements of the overall proposed PD Design function as part of the mitigation strategy.

In order to achieve final approval of the proposed development, the applicant is required to submit Mitigation Measures and Plans that:

- a. Effectively address all applicable issues and concerns established as conditions of approval for the Planned Development by the Planning Commission.
- b. Effectively and proportionately mitigate those adverse impacts (attributable to the Planned Development) experienced by surrounding properties and residents, the neighborhood, and the City as a whole.
- c. Are prepared by and stamped by appropriate experts and/or licensed professionals in Oregon (e.g., traffic engineers, acoustical engineers, environmental engineers, geotechnical engineer, civil engineering geologist, wetland specialists, landscape architects).
- d. Demonstrate in detail that all applicable standards can be met by the proposed measures.
- e. Document efforts to achieve compliance with appropriate regulatory agency or agencies (e.g., the Oregon Departments of Transportation [ODOT], Aviation [DOA], Environmental Quality [DEQ] and State Lands [DSL] and Federal agencies such as the Army Corps of Engineers, Federal Emergency Management Agency [FEMA], Federal Aviation Administration [FAA], National Oceanic and Atmospheric Administration [NOAA], Environmental Protection Agency [EPA]; and the Lebanon Municipal Code provisions such as regulation of hours of operation and noise).

## J. Overview of the Decision Options During “Step 1”

Based on all applicable decision criteria, the Planning Commission may take the following actions regarding the Preliminary Planned Development Design and Program, and all of their components collectively or individually:

1. **Accept and Approve** the Preliminary Planned Development Design and Program as submitted, or with very minor refinements to satisfy the stipulated conditions of approval. The Approved Planned Development Design and Program then essentially become the Final PD Design and Program subsequently submitted for a final review by the Planning Official in a Ministerial Review (Step 2 -- Option 2A).
2. **Approve with Modifications** the Preliminary PD Design and Program so as to satisfy the stipulated conditions of approval. This approved modified PD Design and Program may become part of the Final PD Design and Program subsequently submitted for a final review by the Planning Official in an Administrative Review (Step 2 -- Option 2B).
3. **Approve with Revisions:** Direct the applicant to revise the Preliminary PD Design and Program to satisfy the stipulated conditions of approval. This revised PD Design and Program may then be submitted as the Final PD Design and Program subsequently submitted for a final review by the Planning Official in an Administrative Review (Step 2 -- Option 2B), or by the Planning Commission in a second Public Hearing.
4. **Denial:** The Planning Commission may deny a PD application based on the decision criteria.

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<sup>12</sup> As noted in Section 16.23.010.J, the Planning Commission decision shall be to approve the application, with or without modifications and conditions, or deny it.

## 16.23.020 STEP 1: REVIEW OF PRELIMINARY PLANNED DEVELOPMENT DESIGN AND PROGRAM

### A. General Submittal Requirements

SECTION 16.23.020  
IS PART OF STEP 1  
OF THE PD  
REVIEW PROCESS

PD Applications shall contain all of the general information required for a public hearing, as governed by the provisions of Chapter 16.20 (Section 16.20.050). Applicants for Planned Developments are required to have at least one pre-submittal conference with the Planning Official. Additional meetings may be necessary. The proposed Planned Development Design (overall site design, maps and drawings) and Program (narratives, explanatory documents, technical studies, and mitigation plan) must be prepared by two or more persons with professional qualifications in such design related fields as Architecture, Landscape Architecture, Urban Planning and Civil Engineering. The applicant shall submit the following:

1. A statement detailing the development proposal.
2. A development schedule indicating the approximate dates when construction of the Planned Development and its various phases are expected to be initiated and completed.
3. A statement of the applicant's intentions regarding the long-term ownership and management of the proposed development, including any potential future sale or lease of all or portions of the Planned Development.
4. Special studies prepared by qualified professionals necessary to determine potential adverse project impacts (e.g., traffic, geologic, noise, environmental, natural resource, etc.) and required mitigation. [See Preliminary Mitigation Plan.]
5. **Preliminary Mitigation Plan** that addresses all known, foreseen, and expected adverse project impacts (see Subsection 16.23.010.I.4 and 16.23.030 Section of this Chapter).
6. **Additional Detailed Information:** The applicant's submittal shall include all of the materials listed in Section 16.21.050 (Application Submittal Requirements) of Chapter 16.21 (Conditional Uses).
7. **Additional Design and Program Elements:** The PD submittal shall include (where determined applicable by the Planning Official) any or all of the additional materials listed below.
  - a. Additional Elements of the Plan
    - (1) Parks, playgrounds, recreational facilities, trails and open spaces.
    - (2) Proposed method of solid waste disposal.
    - (3) Proposed method for provisions of water and sewage disposal.
    - (4) Proposed method for the handling of surface water drainage.
    - (5) Proposed grading patterns.
    - (6) A shadow projection, for developers incorporating solar design features.

**b. Additional Elements of the Program (Narrative and Explanatory Documents)**

- (1) Proposed ownership patterns.
- (2) Operation and maintenance proposal, such as condominium, co-op, or Homeowners Association.
- (3) Commercial facilities such as shopping, community facilities such as schools or parks.
- (4) A statement regarding the energy impacts of the proposed development.
- (5) A statement regarding the noise impacts of the proposed development (and proposed mitigation as part of the Preliminary Mitigation Plan).
- (6) Tables showing the total number of acres and the percentage of the total area that is designated for each type of use including each dwelling type, off-street parking, streets, parks, playgrounds, schools, open spaces, and so on as shown on the proposed development plan.
- (7) Tables showing the overall density of the proposed residential development and showing density by dwelling types and any proposals for the limitation of density.
- (8) Drafts of appropriate restrictive covenants, including those regarding the maintenance of landscape 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.
- (9) A timetable indicating when utility and drainage facilities intended to serve the development are to be installed. If the development is to be constructed in stages, the timetable shall reflect this.
- (10) Time table of the development, including expected starting dates, projection of completion time and project phasing, if anticipated.
- (11) Method of public improvements financing, if any.

**B. *Special PD Development Standards***

**1. Minimum Site Size**

The minimum size for a Planned Development is one (1) acre.

**2. Compliance with Applicable Criteria**

The development plan (maps and drawings) and program (narrative and explanatory documents) shall present an organized arrangement of buildings, service facilities, open spaces and improvements such as recreation facilities and fencing to insure compliance with all applicable criteria (e.g., see requirements of underlying zone, and other applicable development requirements, such as parking and access from "Community Design Standards," Article Three of this Development Code).

**3. Depth of Periphery Yards**

Periphery yards of a PD shall be at least as deep as those required by the yard requirements of the underlying zone, unless the Planning Commission finds that specific features of the proposed development would mitigate as well as the specified yard requirements vis-à-vis identified "negative impacts" to the surrounding neighborhood and/or the community as a whole after mitigation.

#### **4. Lot Coverage and Building Height**

Lot coverage and building height shall be no greater than for the underlying zone unless the Planning Commission finds that an exception is warranted in terms of the design and amenities proposed in the total development, and there are no identified “negative impacts” to the surrounding neighborhood and/or the community as a whole after mitigation.

#### **5. Open Space**

Open space in a Planned Development means the land area to be used for scenic or open space 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 adequately designed for the recreational and leisure use of the population occupying the Planned Development.
- c. Designated open space must be accessible and usable year-around.
- d. Before an area can be considered a designated open space it shall have the following required minimum dimensions and minimum area: (1) Length: 20 feet; (2) Width: 20 feet; and, (3) shall have a minimum Area of 400 square feet.
- e. To the maximum extent possible, the open space plan shall demonstrate that natural features of the open space are preserved and complimentary landscaping is provided.
- f. The ongoing provision and maintenance of designated and approved open space areas are a permanent obligation of the Basic Land Use approval of the Planned Development.

#### **6. Subdivision Lot Sizes**

The Planning Commission may approve a reduction in the minimum area, width, depth and frontage requirements for subdivision lots in a PD, if the overall design and amenities of the proposed project outweigh any adverse impacts that may result from reduction in the minimum area, width, depth and frontage requirements for the lots.

#### **7. Required Phasing**

- a. As noted in Subsection 16.23.010.C, the applicant may elect to develop the site in successive phases in a manner indicated in the Development Design and Program.
- b. In addition, the Planning Commission may require that development be done in stages if public facilities are not adequate to service the entire development initially.

## 16.23.030 STEP 1: REVIEW OF PRELIMINARY MITIGATION PLAN DURING THE PRELIMINARY PLANNED DEVELOPMENT HEARING

### A. Overview of the Process

1. Step 1 of the Planned Development review process, the public hearing conducted by the Planning Commission, establishes the general validity of the proposed Design and Program, and may grant approval of the Basic Land Use request involved in the Planned Development application<sup>2</sup>.
2. In this public hearing (Step 1), the Planning Commission also:
  - a. Reviews the proposed Preliminary Mitigation Plan and establishes conditions for the mitigation of any adverse project impacts resulting from the Planned Development – such conditions are also conditions of approval for the Basic Land Use itself.
  - b. Determines the venue of the subsequent mitigation review from the following options:
    - (1) **Option 2A:** Review by the Planning Official as a Ministerial Review.
    - (2) **Option 2B:** Review by the Planning Official as an Administrative Review.
    - (3) **Option 2C:** Review by the Planning Commission in a subsequent public hearing.

SECTION 16.23.030  
IS PART OF STEP 1  
OF THE PD  
REVIEW PROCESS

### B. Submittal Requirements

1. The original submittal package (see Subsection 16.23.020.A) for review of the Preliminary PD Design and Program involved in the Basic Land Use request must include a detailed initial narrative that explains all adverse project impacts that the proposed development can reasonably be expected to generate.
2. Applications must include their Preliminary Mitigation Plans along with their original submittal package for the review of the Preliminary PD Design and Program. Such Mitigation Plans must meet the requirements set forth in Subsection 16.23.010.I.4 and Section 16.23.030.
3. Applications may, at this stage of the review process, also include the proposed final detailed technical studies and/or plans (e.g., Traffic Impact Analysis, Wetland Mitigation Plan) that would be necessary for mitigating the adverse project impacts.
4. The initial narrative and Preliminary Mitigation Plan are not required to include final detailed technical studies and/or plans that would be necessary for a final Mitigation Review. However, in order to expedite the overall process, applicants may elect to include such detailed narratives, technical studies and/or plans along with their Preliminary Planned Development submittal package. Such materials may be approved (with or without modifications), or may need subsequent revision or additional elements after the Planned Development Review by the Planning Commission in Step 1 of the process.

5. The proposed Mitigation Plans must include accurate accounts of quantitative and qualitative descriptions of the adverse project impacts that the proposed development can reasonably be expected to generate.
6. The Preliminary Mitigation Plan submittal package is not intended to duplicate the submittal requirement for review of the Preliminary PD Design and Program (see Section 16.23.020.A above).

### **C. Planning Commission Review and Decision**

During the public hearing review of the Preliminary PD Design and Program, the Planning Commission also reviews the Preliminary Mitigation Plan and establishes conditions of approval for the mitigation of adverse project impacts. Based on all applicable decision criteria, the Planning Commission may then take the following actions regarding the Preliminary Mitigation Plan:

1. **Accept and Approve** the Preliminary Mitigation Plan as submitted, or with very minor refinements to satisfy the stipulated conditions of approval.
2. **Approve with Modifications** the Preliminary Mitigation Plan to satisfy the conditions of approval.
3. **Approve with Revisions:** Direct the applicant to **revise** the Preliminary Mitigation Plan to satisfy the stipulated conditions of approval.
4. **Denial:** The Planning Commission may deny a Preliminary Mitigation Plan application based on the decision criteria.

### **D. Decision Criteria for Mitigation Plans for Planned Developments**

#### **1. Compliance with Conditions of Approval**

- a. Mitigation Plans for Planned Developments shall demonstrate compliance with the Conditions of Approval for the Planned Development Design and Program involved in the Basic Land Use request.
- b. Mitigation Plans must meet the requirements set forth in Section 16.23.010.I.5 and in this Section (16.23.030).

#### **2. Site Specific Conditions of Approval Set by the Planning Commission**

- a. In reviewing and approving Mitigation Plans for Planned Developments, the Planning Commission may impose, in addition to those conditions expressly authorized by this Chapter and this Code, additional conditions that it considers necessary to protect the appropriate development and best interest of the surrounding properties and residents, the neighborhood, and the City as a whole from the foreseen adverse impacts of the development.
- b. These conditions may include any of those listed in Subsection 16.21.060.B (Chapter 16.21).
- c. Such additional conditions shall be established as part of the conditions of approval for the Planned Development Design and Program involved in the Basic Land Use request.

### **3. Required Monitoring of Mitigation Measures**

- a. Effective implementation of the approved mitigation measures, plans, and strategies is an ongoing obligation of the basic land use approval.
- b. Conditions of approval may include ongoing monitoring programs approved by the City (at the owner/operator's expense) after a project is constructed and is operational.
- c. Monitoring may be required following full occupancy and operation of the approved Planned Development.

### **4. Additional Development Requirements**

In addition to the regulations contained in the Lebanon Development Code, and the established Conditions of Approval, Mitigation Measures and Plans for Planned Developments may be required to comply with other requirements, such as the following:

- a. The Lebanon Municipal Code.
- b. The City's Public Improvement Standards, Adopted Standards and Specifications for Construction.
- c. Oregon State Fire Code as adopted by the Lebanon Fire District.
- d. All other applicable regulations provided by law.

## **16.23.040 STEP 1: PRELIMINARY PD DECISION CRITERIA, FINDINGS AND CONDITIONS OF APPROVAL BY THE PLANNING COMMISSION,**

### **A. Decision Criteria and Findings**

The Planning Commission, after the public hearing on the proposed Planned Development Design and Program, shall either approve the application, with or without modifications and conditions, or deny it. A decision to approve a PD shall be based on findings to the following decision criteria.

SECTION 16.23.040 IS THE  
CONCLUSION OF STEP 1  
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1. The proposed Planned Development is in conformance with:
  - a. Basic decision criteria in this Chapter (e.g., Section 16.23.020.B).
  - b. Standards for development in the underlying zones noted Chapters 16.05 – 16.11, or as modified pursuant to the provisions Subsection 16.23.010.F.2.
  - c. Other applicable development requirements, such as parking, and access (see Community Design Standards, Article Three of this Development Code).
2. Exceptions from the standards of the underlying zone may be warranted by the design and amenities incorporated into the Development Design and Program, and provided there are no identified “negative impacts” or “hardships” to the surrounding neighborhood and/or the community as a whole after mitigation.
3. The proposed Planned Development, or a unit thereof, can be substantially completed within the approved timeline.
4. The streets are adequate to support the anticipated traffic and that the Planned Development will not overload the streets within or outside the Planned Development area. [See Mitigation Plan.]
5. The proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create a drainage or pollution problem within or outside the Planned Development area. [See Mitigation Plan.]

### **B. Conditions of Approval**

The Planning Commission may require conditions of approval that may include, but are not limited to the following:

1. Increasing the required setbacks.
2. Limiting the height of buildings.
3. Controlling the location and number of vehicular access points.
4. 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.
5. Requiring additional improvements for utilities or storm drainage facilities.
6. Increasing the number of parking spaces and improving design standards for parking areas.
7. Limiting the number, size, location, and lighting of signs.
8. Designating sites for open space and recreation.

9. Requiring additional view obscuring screening or fencing.
10. Establishing any special 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, recreation areas or community buildings.
11. Requiring assurance that the development of streets, sidewalks, drainage facilities, utilities, and other improvements to standards that are acceptable to the City.
12. Requiring the placement of building and roadways in such a manner that would provide for utilization of the solar potential of the site and protect the solar access of adjacent sites, and, would buffer and minimize any adverse noise impacts.
13. All conditions specified by the Planning Commission shall be incorporated into the Final PD Design and Program.
14. The Planning Commission may require additional conditions for approval, such as those listed in Subsection 16.21.060.B of LDC Chapter 16.21 (Conditional Uses).

## 16.23.050 STEP 2: REVIEW OF FINAL PD DESIGN AND PROGRAM, INCLUDING THE FINAL MITIGATION PLAN

- A. Subsequent to Planning Commission approval of the Planned Development request (“Step 1”), the applicant prepares and submits a Final PD Design and Program, including the Final Mitigation Plan.
- B. The review of the Final Design and Program and Mitigation Plan requires a separate submittal, fee and process.
- C. The review of the Final Design and Program (including the Final Mitigation Plan) is conducted by the designated authority established by the Planning Commission in Step 1. The Review of the Final PD Design and Program shall follow the appropriate procedural provisions of Chapter 16.20. As noted previously, the designated review process and authority shall be one of the following:
1. **Option 2A:** Review by the Planning Official as a Ministerial Review.
  2. **Option 2B:** Review by the Planning Official as an Administrative Review.
  3. **Option 2C:** Review by the Planning Commission in a subsequent public hearing.
- D. “Step 2” may result in the approval<sup>3</sup> of the Final PD Design and Program (including the Final Mitigation Plan).
- E. “Step 2” assesses **compliance with the Conditions of Approval established by the Planning Commission** in “Step 1.” Successful compliance will result in approval of the Final PD application.
- F. **Burden of Proof and Demonstration of Compliance:** Applicants must demonstrate compliance or the ability to comply with all applicable PD Decision Criteria from “Step 1” and Conditions of Approval established by the Planning Commission in “Step 1.”
- G. Approved Mitigation Plans, and their effective implementation, become fundamental conditions of approval for the basic land use involved in the Planned Development Design and Program.
- H. Administrative Review Decisions and Planning Commission Decisions may be appealed, as per the provisions of Chapter 16.20, Subsections 16.20.040.G and 16.20.050.I.

SECTION 16.23.050  
IS STEP 2  
OF THE  
PD REVIEW PROCESS

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<sup>3</sup> The decision of the review authority shall be to approve the application, with or without modifications and conditions, or deny it.