



PLANNING AND ZONING COMMISSION MEETING AGENDA

February 04, 2025 at 5:30 PM

Council Chambers at City Hall - 1123 W. Lake St. Sandpoint, Idaho

Call to Order, Roll Call and Pledge of Allegiance

Election of Chair and Vice Chair

1. Nomination and Election of Commission Chair - **action item**
2. Nomination and Election of Commission Vice Chair - **action item**

Meeting Minutes Approval - action item

3. Approval of the Minutes from the Commission's January 21, 2025, Meeting - **action item**

Matters from the Public - General Comments

Old/Unfinished Business

4. Update to parking management plan draft and summary of public comments received to date. Explain next steps in plan development and public engagement.

New Business

5. Legal Training and Refresh for Commissioners by City Legal Counsel
6. Planned Unit Development Training Refresher - Understanding PUD and its Process

Matters from City Staff

Matters from the Commission / Commissioners Roundtable

Adjourn

Public Participation Options and Information

Send written comment to planningdepartment@sandpointidaho.gov or deliver to City Hall.

Attend in person: See above for meeting location. Seating available on first-come, first-served basis.

Attend remotely: Register at <https://www.sandpointidaho.gov/your-government/meetings>.

After the meeting, view the recording on YouTube: <https://www.youtube.com/c/CityofSandpoint>.

For questions or requests for special accommodation: At least 48 hours prior to the meeting, send a message to the email address above or call (208) 263-3370.



PLANNING AND ZONING COMMISSION MEETING MINUTES

January 21, 2025 at 5:30 PM

Council Chambers at City Hall - 1123 W. Lake St. Sandpoint, Idaho

Call to Order

Chairman John Hastings called the meeting of the Sandpoint Planning and Zoning Commission to order at 5:30 p.m. on Tuesday, January 21, 2025, in Council chambers at City Hall, 1123 W. Lake St., Sandpoint, Idaho.

Roll Call

Present

Commissioner John Hastings, Chair
 Commissioner Mose Dunkel, Vice Chair
 Commissioner Reid Weber
 Commissioner Grant Simmons
 Commissioner Wayne Benner
 Commissioner Scott Torpie

Absent

Commissioner Ivan Rimar

Pledge of Allegiance

Chairman Hastings led everyone present in reciting the Pledge of Allegiance.

Announcements

Farewell wishes for Commissioner Hastings, whose term was expiring on January 31, 2025.

Meeting Minutes Approval

1. The September 17, 2024, meeting minutes were approved by a vote of Commissioners present.

Motion made by Commissioner Dunkel, Seconded by Commissioner Benner.

Voting Yea: Commissioner Dunkel, Commissioner Weber, Commissioner Simmons, Commissioner Torpie, Commissioner Benner

Abstaining: Commissioner Hastings

Absent: Commissioner Rimar

Old/Unfinished Business - none

New Business

2. Community Planning and Development Director Jason Welker provided a presentation on the Proposed Parking Management Plan for Downtown Off-street Parking Facilities and fielded questions from the Commissioners, followed by comments from the public and additional discussion. Information only; no Commission action.

Commissioner Roundtable

Information only; no Commission action.

D R A F T

Minutes from the January 21, 2025, Sandpoint Planning and Zoning Commission Meeting - Page 1 of 2

Adjourn

The meeting adjourned at 8:05 p.m.

I confirm that these minutes, prepared by the Board Clerk, were approved by the Sandpoint Planning and Zoning Commission during their meeting on _____, 2025.

_____, Chair

Attest: Krista Lester, Board Clerk

City of Sandpoint Paid Parking Policy and Fee Structure

Proposal for Mayor Grimm and Sandpoint City Council

Jason Welker, Planning & Community Development Director

Introduction

Sandpoint's downtown paid off-street parking policy is intended to provide a funding mechanism to support the ongoing maintenance and development of public parking facilities in the Commercial A zoning district, including the downtown core, City Beach, and north to the Pend Oreille Bay Trail parking lot. The policy is based on the findings of Sandpoint's 2022 Parking Demand Study, which included among its preliminary policies and strategies the proposal to "implement and manage a paid parking program" to "support a vibrant downtown core" and the 2024 Comprehensive Plan, which included among its goals and objectives:

- "Enhance access to businesses, shops, restaurants, and other destinations through parking management solutions" (Chapter 6, Goal 1, A);
- "Refurbish the existing (City) lot, add paid parking." (Chapter 9), and;
- "Ensure sufficient public parking to enable redevelopment of underutilized properties" (Chapter 9, Goal 5, J)

A paid parking policy will generate between \$300,000 and \$350,000 annually to maintain, enhance, and eventually expand downtown parking, most of that revenue coming from visitors and tourists whose use currently dominates our off-street parking facilities during peak demand periods, yet who pay nothing towards those facilities' maintenance or eventual replacement costs.

Implementing a paid parking system for off-street parking facilities aligns with and supports the City's policy of exempting residential and non-residential development within the Commercial A district from off-street parking requirements. By monetizing parking, the City incentivizes efficient land use and encourages alternative modes of transportation, reducing the demand for expansive parking lots that consume valuable urban space. Unpriced parking, on the other hand, distorts urban development patterns, promotes car dependency, and increases housing and commercial costs.

City Parking: An Asset or Liability?

Cities often fall into the trap of viewing infrastructure like roads, parking lots, and utilities as assets simply because they provide a public service or attract users. Infrastructure is only an asset if the city can afford to maintain it over its lifecycle. When a city lacks the financial resources to properly maintain and eventually replace its infrastructure, that infrastructure becomes a **liability**—a cost that drains resources rather than generating value. Over time, neglected infrastructure deteriorates, leading to higher repair costs, safety risks, and diminished usability for residents and visitors.

Parking lots can seem like assets because they are highly visible and facilitate access to downtown businesses and recreational areas. Yet, without a dedicated funding mechanism, such as a paid parking program, the costs of maintaining these facilities inevitably fall on the city's general tax base, creating an unsustainable burden on local residents.

To transform liabilities into assets, cities must align their revenue structures with the long-term costs of their infrastructure. Paid parking systems provide a sustainable funding mechanism that ensures users contribute directly to the costs of maintaining and replacing the facilities they use. In the same manner that water and sewer services are paid for by those who use them, provision of off-street parking can be paid for by those who use it. This approach promotes fiscal health by aligning usage with responsibility, reducing dependence on already-stretched general funds, and preventing the kind of deferred maintenance that can lead to spiraling costs or eventual failure. By recognizing and addressing this dynamic, Sandpoint can move toward a more resilient and financially sustainable future, ensuring its infrastructure remains a benefit to the community rather than a hidden liability.

Purpose of Proposed Paid Parking Policy:

The purpose of implementing paid parking at Sandpoint's downtown and waterfront off-street parking facilities is to begin generating revenue to cover the actual costs of maintaining and eventually replacing the City's parking infrastructure. Currently, under the "free-to-park" model, the burden of maintaining downtown Sandpoint's 505 off-street parking spaces falls on the City's **General Fund**, the **Parks Fund** (which relies on revenues generated by parks facility users), and occasional grants secured by City staff. This system places an additional burden on residents and parks users while allowing non-resident users to benefit from these facilities without contributing to their upkeep.

By transitioning to a paid parking model, the **largely non-resident users** of Sandpoint's off-street parking facilities will share the financial responsibility for maintaining and replacing these essential public assets. This policy reflects the City's commitment to creating a fair, sustainable, and financially responsible system for managing its parking resources, ensuring that users contribute equitably to the long-term viability of Sandpoint's public amenities.

Capital costs of Sandpoint's off-street parking

The estimated annual maintenance and replacement cost of downtown Sandpoint's 505 off-street parking spaces is approximately **\$290,375, or \$575 per parking space**. Typical maintenance includes sweeping, crack sealing, striping, sealcoating, and occasional asphalt repairs, which costs around \$400 per parking stall. The eventual 20-year replacement cost is estimated at **\$3,500 per stall (annualized to \$175 per year)** based on local construction costs from recent parking lot projects completed in Sandpoint including Travers Park parking lot.

This policy has been developed to correlate to the anticipated maintenance costs the City already bears (or in most cases, defers) in its provision of off-street parking, NOT as a general revenue source to be allocated to capital projects unrelated to downtown parking and related amenities. Based on projections, implementing paid parking is expected to generate approximately **\$324,834 in annual revenue**, fully covering maintenance and replacement costs while providing additional funds to enhance the City's parking facilities and infrastructure, which

presently have not seen meaningful investment or basic maintenance in decades due to the lack of available funding mechanisms.

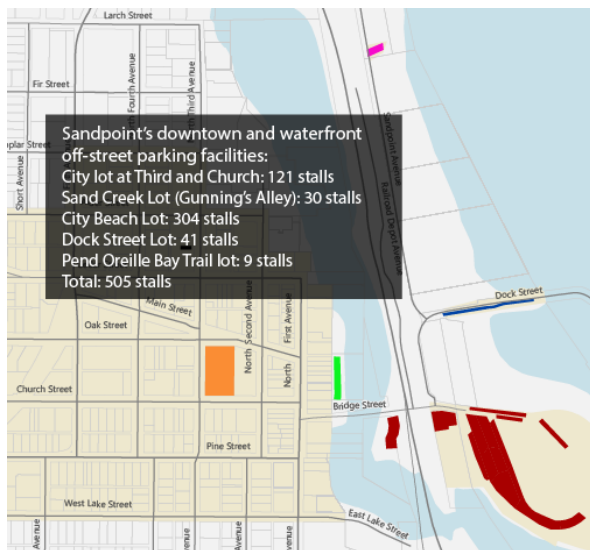
Applicability

The parking policy applies **year-round** to the following **City-owned parking lots** and on-street parking facilities in the Commercial A district, including:

1. **City Beach Lot**
2. **City Lot at Third and Church Streets**
3. **Sand Creek Lot**
4. **Pend Oreille Bay Trail Lot**
5. **Dock Street Lot (Windbag Marina)**

Dynamic pricing¹ will be implemented during weekends and peak periods (Memorial Day to Labor Day) for high-demand waterfront lots, including the **City Beach Lot**, **Sand Creek Lot**, and **Dock Street Lot**.

The **North ITD Lot** and **South ITD Lot** across Fifth Avenue are excluded from this policy, as the City does not own these free public lots.



¹ Dynamic pricing: a flexible pricing strategy where the cost of parking adjusts periodically based on demand, availability, or time of day.

Parking Fees

The proposed parking fee model is based on a base **hourly rate of \$2**, with dynamic pricing applying at the waterfront parking lots at City Beach, Sand Creek (Gunning's Alley) and Dock Street. **Dynamic pricing starting at \$3 per hour and increasing with demand** will apply on weekends during the peak summer months (Memorial Day to Labor Day).

Daily maximums of \$16 for the City Lot, ~~City Beach Lot~~, Sand Creek Lot, and Pend Oreille Bay Trail Lot will apply, while the Dock Street Lot ~~and City Beach lots, due to its proximity to the proposed new hotel and limited availability of parking stalls,~~ will have a **daily maximum of \$20 \$24**.

Parking Pass Options

The policy includes several parking pass options to provide flexible and affordable alternatives to the standard hourly and daily parking rates. These passes include annual options for residents, non-residents, downtown business owners, downtown residents, and marina slip occupants, each tailored to meet the needs of frequent users while ensuring they contribute to the maintenance and replacement costs of Sandpoint's parking infrastructure.

Resident and non-resident passes

For City of Sandpoint residents and non-residents, the passes allow for up to ~~two-three~~ hours of free parking per visit at the City Lot, Sand Creek Lot, and Pend Oreille Bay Trail Lot, and Dock Street and four hours at City Beach Lot, providing a cost-effective solution for short-term parking while still generating revenue for the City.

Downtown business passes

Downtown business passes, offered exclusively to businesses within the Commercial A zoning district, enable employees to park at all City-owned lots for a flat annual fee, supporting local economic activity and reducing administrative burden for daily parkers.

Marina slip occupant passes

Seasonal lessees of slips at Sandpoint's public marinas (Windbag and City Beach) have the option to purchase passes that grant parking for up to 24 hours at the City Beach or Dock Street lots to access their slips, ensuring convenient parking while addressing the unique needs of this user group.

Downtown Resident passes

The downtown resident pass is for individuals who live within the Commercial A zoning district to allow for use of City parking lots and on-street parking spaces that otherwise limit parking to a maximum of 2, 3, or 4 hours. This is a pass that is already included in Sandpoint's fee schedule, and with additional residential units currently in the development pipeline the demand for resident parking passes is anticipated to increase in the coming years.

Summary of Parking Pass Options

Pass Type	Cost	Eligibility	Benefits
Resident Annual Pass	\$40 \$15	City residents	2 3 hours free parking per visit <u>for a single car at all lots for a single car City Lot, Sand Creek Lot, PO Bay Trail Lot, and Dock Street, 4 hour free parking at City Beach lot.</u>
Non-Resident Annual Pass	\$20 \$30	Non-City residents	2 hours free parking per visit at all lots for a single car
Downtown Business Pass	\$200 \$250	Commercial A district businesses	Unlimited parking at all lots for a single car
Marina Slip Occupant Pass	\$400 \$150	Windbag or City Beach slip occupants	Unlimited parking at Dock Street and City Beach lots
Downtown resident parking pass	\$350	Residents of the Commercial A district	Unlimited on-street and off-street parking downtown
<u>Boat Launch fee (Idaho State resident)</u>	\$10/launch	<u>Idaho state residents</u>	<u>City Beach and Memorial Field boat launches</u>
<u>Boat Launch fee (Out-of-state resident)</u>	\$15/launch	<u>Out-of-state residents</u>	<u>City Beach and Memorial Field boat launches</u>
<u>Boat launch season pass (Idaho State resident)</u>	\$50	<u>Idaho state residents</u>	<u>City Beach and Memorial Field boat launches</u>
<u>Boat launch season pass (Out-of-state resident)</u>	\$100	<u>Out-of-state residents</u>	<u>City Beach and Memorial Field boat launches</u>

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*1. Any vehicle or vehicle trailer combination with a total length of 21 feet or greater would increase fee to two-times the ticket price, which is the basis of the oversized vehicle fee. 2.No trailer parking without vehicle is allowed.

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Compliance with LWCF Guidelines

This parking policy aligns with the **Land and Water Conservation Fund (LWCF) guidelines** by maintaining equitable public access to City-owned parking facilities and ensuring compliance

with restrictions on discriminatory practices. LWCF regulations stipulate that facilities developed or improved with LWCF funds must remain accessible to the general public without imposing restrictions based on residency or other discriminatory criteria. This policy upholds these requirements by offering parking access to all users, regardless of residency, and structuring fees and passes in a way that does not exclude or unfairly burden any group.

Hourly and daily parking rates are applied uniformly, with no residency-based restrictions, ensuring that both residents and non-residents have equitable access to parking facilities. While the policy offers discounted annual parking passes for residents, this option is available alongside non-resident passes, which provide the same benefits for a modestly higher fee. These options maintain compliance by ensuring non-residents have access to the same parking privileges as residents without exclusion or disparity in service.

Furthermore, the policy balances compliance with LWCF guidelines while addressing the practical need for sustainable funding. By charging users modest fees to support the maintenance and eventual replacement of parking infrastructure, the City ensures the facilities remain accessible, safe, and functional for all users in the long term. This approach fulfills the dual goals of preserving public access and promoting the financial sustainability of facilities developed with LWCF assistance.

Revenue Estimates:

To estimate revenue from the paid parking at Sandpoint's downtown and waterfront off-street parking facilities occupancy and turnover data from the 2022 Parking Study were applied and two scenarios were considered.

Scenario 1: No change in occupancy rates resulting from rollout of paid parking policy.

Turnover rates (number of vehicles using each parking stall each day) are assumed to be 3 vehicles per day during the peak season and 1 vehicle per day during the off-peak season at all lots. Occupancy rates observed in the 2022 parking study are **80% occupancy during peak season** for all lots except Pend Oreille Bay Trail and Dock Street, which vary based on demand. **During Off-Peak Season (October to April)** occupancy is estimated at:

- 50% at the City lot
- 5% at City Beach lot
- 60% at Sand Creek and Pend Oreille Bay Trail lots
- 10% at Dock Street lot

Using these rates as a baseline, the estimated total revenue from the paid parking program is **\$369,584.40**

Revenue by Parking Lot:

- City Lot (Third and Church): \$72,116.00
- City Beach Lot: \$184,771.20
- Sand Creek Lot: \$28,728.00
- Pend Oreille Bay Trail Lot: \$5,745.60

- Dock Street Lot: \$26,223.60

Revenue from Parking Passes:

- Resident Annual Passes: \$5,000.00 (500 passes at \$10 each)
- Non-Resident Annual Passes: \$10,000.00 (500 passes at \$20 each)
- Downtown Business Passes: \$20,000.00 (100 passes at \$200 each)
- Marina Passes (Dock Street and City Beach): \$17,000 (assuming 75% of slip renters buy a pass; 170 passes at \$100)

Scenario 2: Elasticity impact with reduced occupancy rates due to the rollout of paid parking

Demand for off-street parking is likely to fall once paid parking is implemented as users seek free alternatives to City lots such as street parking and the two ITD lots across Fifth Avenue. The “elasticity” of demand for parking is a value that tells us the percentage by which occupancy rates are likely to fall for each 1% increase in the price. Research suggests that the price elasticity of parking demand is between -0.1 and -0.5, meaning a 10% increase in price could lead to a 1% to 5% decrease in demand.

Based on these assumptions, the estimated occupancy rates following rollout of paid parking are summarized in the table below. The “Adjusted Peak” indicates the likely average occupancy rate after accounting for reduced demand following the rollout of paid parking.

Lot	Original Peak	Adjusted Peak	Original Off-Peak	Adjusted Off-Peak
City Lot (Third & Church)	80%	65% (-15%)	50%	45% (-5%)
City Beach Lot	80%	70% (-10%)	5%	4% (-1%)
Sand Creek Lot	80%	65% (-15%)	60%	50% (-10%)
Pend Oreille Bay Trail Lot	80%	65% (-15%)	60%	50% (-10%)
Dock Street Lot	80%	70% (-10%)	10%	8% (-2%)

Taking into consideration a likely reduction in demand for off-street parking following the implementation of a paid parking system, the revised estimated revenue from the paid parking system is **\$324,834.64**.

Revenue by Parking Lot:

- City Lot (Third and Church): \$60,838.80
- City Beach Lot: \$160,949.76

- Sand Creek Lot: \$23,580.00
- Pend Oreille Bay Trail Lot: \$4,716.00
- Dock Street Lot: \$22,750.08

Revenue from parking passes is assumed to be the same in both scenarios, at **\$52,000**.

Summary

Under the current free parking system, Sandpoint generates no revenue from its off-street parking facilities. This leaves the City with a significant funding gap, as the estimated annual cost of maintaining and eventually replacing the 505 parking spaces is approximately **\$290,375**. In the absence of paid parking, this financial burden falls entirely on the General Fund, the Parks Fund, and any grants that City staff can secure. This approach places a disproportionate strain on local taxpayers and parks users, while allowing non-resident users of Sandpoint's parking facilities to benefit without contributing to their upkeep.

Implementing a paid parking system addresses this deficiency by generating an estimated **\$324,734.64** annually. Of this, \$272,834 is expected to come from hourly and daily parking fees across the five City lots, and \$52,000 from annual parking pass sales (resident, non-resident, downtown business, and marina passes). This revenue not only fully covers the projected maintenance and replacement costs but also provides a surplus of approximately **\$34,359.64**. The surplus could be reinvested in further improving parking infrastructure or other related projects.

By charging users for parking, the financial burden shifts away from Sandpoint's general tax base, ensuring that those who utilize the parking facilities contribute directly to their upkeep. This is particularly impactful for non-resident users, who represent the majority of parking demand and were previously able to park for free without any contribution to the City's costs.

The paid parking system also establishes a sustainable funding mechanism that ensures the City's parking infrastructure is adequately maintained and replaced as needed, preserving its functionality for future generations. Overall, the transition to a paid parking model promotes equity and fiscal responsibility by aligning the costs of maintaining Sandpoint's parking facilities with their actual usage, turning Sandpoint's five downtown off-street parking facilities from a liability into an asset, whose value for future generations is secured through a sustainable funding mechanism.

Finally, the proposed paid parking policy directly supports several goals and objectives of the 2024 Comprehensive Plan, particularly in the areas of Multimodal Transportation, Community Character and Design, and Jobs & Economic Development. By managing parking demand through pricing, the policy aligns with the Plan's focus on enhancing access to businesses and reducing congestion in high-demand areas (Chapter 6, Multimodal Transportation). It fosters efficient land use, preserving Sandpoint's vibrant downtown while reducing the need for expansive parking infrastructure that detracts from the city's character (Chapter 3, Community Character and Design). Furthermore, the revenue generated supports infrastructure maintenance and economic growth by ensuring a steady funding stream for public facilities, thereby promoting fiscal sustainability and investment in Sandpoint's downtown economy.

(Chapter 9, Jobs & Economic Development). This integrated approach reflects the Plan's vision of creating a dynamic, accessible, and economically resilient community.

Additional areas of the Comprehensive Plan that would be directly supported through implementation of this policy include:

1. Parks, Recreation, and Trails (Chapter 7)

A paid parking policy can help generate revenue to maintain and improve public spaces, including parks and recreational areas. By allocating parking revenue toward these amenities, the City can enhance the quality and accessibility of its recreational facilities, aligning with the Plan's goal of creating a robust parks and trails network that benefits residents and visitors alike.

2. Housing and Neighborhoods (Chapter 5)

Paid parking can reduce the pressure to dedicate excessive land to parking, freeing up space for residential and mixed-use development. This aligns with the Comprehensive Plan's goals of encouraging diverse housing options and creating livable neighborhoods. In particular, limiting free parking discourages car dependency, fostering more walkable, pedestrian-friendly neighborhoods.

3. Public Facilities, Services, and Utilities (Chapter 8)

The policy ensures sustainable funding for infrastructure improvements, supporting the maintenance of utilities and public services. Paid parking revenue can also contribute to better signage, lighting, and drainage in parking facilities, improving the overall quality of public infrastructure as outlined in this chapter.

4. Natural Resources and Hazards (Chapter 11)

By managing parking demand and encouraging alternative transportation options, a paid parking policy helps reduce environmental impacts such as air pollution and land use sprawl. These actions align with the Plan's goals of protecting natural resources and promoting sustainable development.

5. Implementation (Chapter 12)

The policy aligns with the Plan's call for actionable strategies to achieve the City's goals. By introducing a revenue-generating parking system, the City adopts a pragmatic approach to fund infrastructure and achieves long-term objectives without relying solely on external funding sources.

By supporting these additional areas, the paid parking policy demonstrates its broad utility in advancing Sandpoint's vision for a sustainable, livable, and economically vibrant community.

Summary of Public and Written Comments on Proposed Parking Management Plan for City Beach, Sandpoint

Note: *The following was generated from AI with the following prompt: “Summarize the accumulated notes from public comments and written comments received on the proposed Parking Management Plan for the City of Sandpoint, pasted below. Organize the comments into some key themes with recommendations for improvement to the proposed policy.”*

AI Response:

The feedback received on the proposed parking management plan for City Beach reveals several key themes of concern, support, and recommendations for improvement. Below is an organized summary of the main points.

Key Themes and Concerns

1. Hotel and Overflow Parking Impact

- Many residents are frustrated that the in-lieu parking arrangement for the new hotel allowed it to provide fewer parking spaces than originally planned.
- Concerns that hotel guests will use City Beach parking instead, limiting access for residents.
- Suggestion that overnight parking should be restricted to prevent hotel patrons from monopolizing spaces.
- Recommendation: Require the hotel to build more parking or implement a dedicated valet service to keep their guests from using City Beach parking.

2. Length of Free Parking Period

- The proposed 2-hour free limit is widely criticized as too short, especially for families with children and those spending a full day at the beach.
- Many suggest extending free parking for residents to 3-4 hours.
- Recommendation: Increase free parking time for locals, particularly Sandpoint residents.

3. Equity for Sandpoint and Bonner County Residents

- Many Bonner County residents feel alienated by the distinction between City of Sandpoint residents and county residents.
- There is strong support for allowing all Bonner County residents to access an affordable pass, possibly linked to license plates.
- Suggestion to adopt a three-tiered system:

- Free or low-cost passes for Sandpoint residents
- Slightly higher fee for Bonner County residents
- Higher hourly/daily fees for out-of-state visitors.
- Recommendation: Adjust pricing to be more inclusive of county residents while maintaining higher fees for out-of-state users.

4. Boat and Marina Parking Issues

- Concerns about lack of designated parking for boat trailers and marina slip holders.
- Concern that parking fees will push boaters to use Memorial Field instead, creating congestion in nearby residential neighborhoods.
- Recommendation: Implement boat launch fees at both City boat launches and a paid parking fee schedule that charges vehicles with trailers rates reflective of their impact on availability of parking for other park guests.

5. Implementation of Parking Technology and Payment Options

- Many support using License Plate Recognition (LPR) technology to allow residents free access while charging non-residents.
- Support for app-based parking payments, digital permits, and pay-on-exit systems.
- Concern over potential congestion caused by gates, kiosks, and fumbling with credit cards at entrances.
- Recommendation: Implement LPR technology for seamless access and online permit purchases for locals.

6. Seasonal vs. Year-Round Parking Fees

- Multiple comments suggest that parking fees should only apply during peak summer months.
- Recommendation: Consider free or reduced fees during the off-season (October–April).

7. Traffic and Congestion Concerns

- Some worry about increased congestion due to payment systems and reduced parking availability.
- Suggestions to provide a free shuttle service from outer parking areas to reduce demand for prime spaces.
- Recommendation: Explore shuttle services and minimize congestion caused by new payment systems.

8. Revenue Use and Transparency

- Many residents want clarity on where parking revenue will go—some suggest it should fund waterfront improvements or a parking structure.

- Concerns that selling public parking assets (like the downtown lot) could be a mistake.
- Recommendation: Clearly communicate how revenue will be reinvested, such as for maintenance or new facilities.

Recommendations for Policy Improvements

1. **Extend Free Parking for Locals:** Increase free parking for Sandpoint and Bonner County residents to at least 3-4 hours.
2. **Tiered Pricing Structure:**
 - Sandpoint residents: Free or low-cost annual pass.
 - Bonner County residents: Slightly higher annual fee.
 - Non-residents: Higher daily or hourly rates.
3. **Implement Digital Parking Solutions:** Use LPR for seamless resident access and online/app-based payments for visitors.
4. **Address Hotel Parking Concerns:** Require the hotel to build additional parking or implement a valet system to avoid spillover into public lots.
5. **Designate Separate Boat/Trailer Parking:** Move trailer parking off-site to avoid congestion at City Beach.
6. **Consider Seasonal Fee Structures:** Charge for parking only during peak season (summer months).
7. **Improve Public Communication:** Clearly outline how revenue from paid parking will be used to benefit public spaces.
8. **Explore Alternative Transportation Solutions:** Implement a shuttle system or promote alternative parking areas to reduce congestion.

Conclusion

The majority of public feedback indicates opposition to a rigid paid parking structure that does not account for local access needs. Residents strongly support a system that:

- Prioritizes access for locals (both city and county).
- Charges higher fees for non-residents.
- Provides flexibility in terms of parking duration and seasonality.
- Ensures the hotel's parking obligations are fully met.

By adjusting the policy based on these recommendations, the City of Sandpoint can balance revenue generation with fair and equitable access to City Beach for both residents and visitors.

CHAPTER 1

**Planned Unit Development
as a Zoning Concept**

As I write, more than 20 percent of all homes in this country are built by the nation's top 10 builders. This is an amazing statistic. It highlights a growing concentration in the home building industry that is changing the shape of land development because large builders build at a large scale. Planned unit developments (PUDs) and master-planned communities now make up the largest share of new development in many suburban areas and contribute to the growing demand for infill development in urban centers. In California alone, one law firm had 204,000 units of housing approved in PUDs and master-planned community projects when interviewed for this report. These trends call for a new look at PUDs and master-planned communities as a zoning strategy.

Simply put, a PUD is a development project a municipality considers comprehensively at one time, usually in the zoning process employed to approve a development plan.

SOME HISTORY

PUD as a land-use concept began in the 1950s and 1960s. Simply put, a PUD is a development project a municipality considers comprehensively at one time, usually in the zoning process employed to approve a development plan. A PUD proposal will contain a map and the regulations under which the project will be built. PUDs were at first primarily residential. They were a change in style from the standard residential developments common after the Second World War.

This change occurred because the standard subdivision ordinance and the accompanying zoning regulations have serious design flaws when applied to residential land-use projects. Most conventional zoning ordinances do not allow single-family, multifamily, and nonresidential uses in the same zoning district. They also contain site development standards for setbacks, site coverage, and the like that produce dull projects because they apply uniformly throughout each district. Subdivision control deals principally with infrastructure and lot and block layout in new subdivisions. Neither allows the review of a project on a comprehensive basis as an integrated entity, where a jurisdiction can consider its development and design details.

Allowing for effective open space was another problem inherent in standard subdivision ordinances. Building lots at the time subdivision legislation was adopted were small and located in built-up urban areas where parks were provided by the local government. As development moved to the suburbs, lots became bigger, but most of the open space surrounding single-family homes was unusable. Yet there was no way under existing zoning and subdivision regulations to link the approval of new residential development with common open space that would provide recreational and other amenities for project residents.

Developers who had to comply with these zoning and subdivision regulations typically built residential projects with a sameness that led to the nickname “cookie-cutter” development. Residential lots were all the same size. The ranch house style was common, leading to what some called “cheesebox on a raft” development in which look-alike ranch homes were built on oversized lots with private open space that received little use. Nothing in the regulations required attention to design. The song by Malvina Reynolds popular at the time caught the idea:

Little boxes on the hillside
 Little boxes made of ticky-tacky
 Little boxes, little boxes
 Little boxes all the same

The PUD concept was a response to these failings in residential development. It was implemented by a new set of regulations in the zoning ordinance that applied primarily to residential development and required a discretionary project review followed by the approval of a development plan that displaced zoning regulations in residential zones. In its early stages, PUD was intended to provide a comprehensive development review that could overcome the shortcomings of zoning and subdivision regulation, improve project design, and provide for of common open space in return for “clustering” development elsewhere in the project at increased densities. Open space was either privately held and available only to the residents of the PUD or dedicated to the local government. Total project density was not increased. This form of PUD is usually called “cluster” development.

Planned unit cluster development had other attractions for developers. Project costs would be lower because clustering reduces the length of streets and other linear facilities. This hoped-for saving does not always occur, how-

ever, because developers claim that savings in development costs are more than offset by the increased cost of complying with PUD regulations.

PUD regulation did mark a change from the way in which land-use regulations had been applied. Instead of zoning regulations that decided what development was allowed as a matter of right, and subdivision regulations limited to measurable requirements such as street widths, PUD regulations allowed municipalities the discretion to decide what kind of development they would approve.

Changes in development style can be threatening to neighbors, and discretionary review can be unfair to developers, but several factors make limited PUD more acceptable to many communities. One was homogeneity in the residential development and demographics at the time. This was a time when a majority of the country lived as nuclear families with an average of 3.37 children. The father worked, and the mother stayed at home. Single-family housing dominated, and styles were similar. PUD ordinances allowed communities to use their discretion in deciding what developments they would accept, but that discretion was limited because any developments they approved would serve the typical family and would likely be built in the familiar development pattern. In addition, PUD regulations that followed the cluster development model were limited to single-family development and did not allow an increase in density.

Changes in development style can be threatening to neighbors, and discretionary review can be unfair to developers, but several factors make limited PUD more acceptable to many communities.

EARLY REPORTS AND MODEL REGULATIONS

The standard zoning act adopted by most states does not contain statutory authority to regulate PUD. This was a concern. By the mid-1960s, attention turned to the need for statutory authority. The Urban Land Institute published a model statute and held a conference introducing it about that time (Babcock and McBride 1965). It was not widely adopted and proved too rigid, though a number of states have enabling legislation for PUD today that enacts a different statutory model.

There also was a need for model regulations, so the American Society of Planning Officials, later to become the American Planning Association, asked me to prepare a report on PUD that contained recommendations for a model ordinance (Mandelker 1966). Several years later APA published another report on PUD based on a questionnaire, national interviews, and a review of PUD regulations that updated my earlier report (So, 1973). The Urban Land Institute then published a report some years later that discussed how PUD was carried out in practice and included a discussion of regulatory problems and issues (Moore and Siskin 1984).

These reports and recommendations generally assumed the typical PUD would be a cluster development limited to single-family development with no increase in project density. Multifamily uses might be permitted marginally, and commercial development could be allowed if accessory and related to the residential uses. The PUDs studied in the ULI report were also small in size. Only a few were larger than 100 acres. Development at this scale does not raise problems at the regional level, such as the impact on highway facilities and the jobs/housing balance. Cluster development could also be approved under the subdivision ordinance, though the reports recommended including PUDs regulations in the zoning ordinance as a rezoning or conditional use if a change in use or density was required.

These reports were limited in the changes they suggested. As proposed in these reports, PUD was only a marginal change to existing land-use regulation and did not substantially modify the regulatory framework. It filled a gap in existing regulations by allowing a comprehensive review of new development that promised new design opportunities while preserving open space. This expectation was clear in ordinance purpose clauses providing

PUDs can range in size from infill housing development on a few acres in a downtown area to a large master-planned community of 50 square miles in outer suburbia.

that local governments could not approve a PUD unless they found it would provide a better built environment than what could be accomplished under existing regulations. This type of purpose clause is still common.

Though the type of development contemplated under PUD regulation did not differ much from what had been done before, this kind of regulation did change the basis for development because it required PUDs to obtain approval in a discretionary review process. This was a major change. Zoning ordinances allow uses as-of-right, and subdivision ordinances have set standards. This kind of nondiscretionary regulation can be arbitrary, but it is fair if the review standards in the ordinance are fair and fairly applied.

By comparison, a discretionary approval process can provide opportunities for unfair and arbitrary decision making. The PUD review process can become an invitation to essentially standardless negotiation if the ordinance is not written properly. It can also provide opportunities to developers to overreach and obtain excessive concessions or even default on their promises by failing to provide improvements and infrastructure that were promised (Turque 2006). One feature of my early report was a concern that approval standards provide sufficient guidance and that ordinances contain sufficient protections, so that developers could not take unfair advantage. Strict provisions about development phasing, for example, are necessary so that developers do not build a profitable part of a development first and then not provide promised amenities, such as common open space. Controlling the exercise of discretion in planned development regulation is still a major problem.

WHAT PUD IS TODAY

The origins of PUD regulation explain what PUD is today. It has a dual character. As the Urban Land Institute report stated several years ago, PUD is both a physical plan and a legal concept (Moore and Siskin 1984, 5). This definition highlights the difficulty in defining PUD, as it is both a development type and a legal process for approving a development type. This dual character is reflected in a definition of PUD contained in a Eugene, Oregon, General Information sheet:

A planned unit development (PUD) is a comprehensive development plan intended to provide flexibility in design and building placement, promote attractive and efficient environments that incorporate a variety of uses, densities and dwelling types, provide for economy of shared services and facilities, and preserve natural resources. (Eugene, Oregon, Planning and Development Department, n.d.)

This definition includes both the process and physical design elements of PUD. It notes the opportunity for flexibility in design and building placement, which can occur through the approval process, but also emphasizes elements in physical design that must be included, such as mixed uses, densities, and the preservation of natural resources. The definition does not expressly state that the design of PUDs must be better than what might be obtained through traditional zoning, but it is implied.

One omission is a size requirement. PUDs can range in size from infill housing development on a few acres in a downtown area to a large master-planned community of 50 square miles in outer suburbia. This variety suggests that different kinds of regulation are required for different types of development and that no single approach to PUD regulation can fit all alternatives. Downtown sites, for example, may not have natural resources to preserve. A definition may not be able to catch all of these alternatives.

A PUD that has a variety of mixed uses is usually called a master-planned community when it is built on a large scale. The development of increasing

numbers of these communities is one of the most important changes in the PUD concept in recent years, and this increase has significantly changed the way in which communities draft and apply PUD regulations. We have had master-planned communities for some time, of course—large-scale developments often with thousands of homes and divided into neighborhoods with mixed uses, including retail and employment centers. Now, especially in the west, the south, and other growing areas of the country, the master-planned community is becoming the standard method of development. Their larger scale and mix of uses may require different kinds of regulatory treatment in PUD ordinances.

So how should a PUDs be defined, or is a definition necessary? The Eugene definition can be generalized to better emphasize both the process in which PUDs are approved and the type of development contemplated by the regulations:

A PUD is a development that has been approved in a process that requires the comprehensive review of project design and that can include a variety of project types, including infill developments, housing developments, and mixed-use developments, such as master-planned communities.

Ordinances may need definitions more specific to the types of PUDs that are allowed.

THE CHANGING MARKET AND POLICY ENVIRONMENT FOR PUDS AND MASTER-PLANNED COMMUNITIES

Changes in market demand, development practices, the scale of development, and community expectations have substantially altered the market and policy environment for PUD regulation. These changes need to be considered.

Housing demand, for instance, has called for major changes in the housing products that PUDs and master-planned communities offer. One observer commented several years ago that a mass market in housing no longer exists; rather, it is breaking into niche markets with different housing needs (Halter 1998, 1). This change has occurred because the homebuyer profile has changed, and the stereotypical nuclear family of the past no longer drives the housing market. The nuclear family is a minority, and the number of children on average in each family has decreased by one-third. Employment has shifted from production to service, and time is a growing amenity as many families need dual incomes, and work demands put pressures on family life. Working at home through telecommuting is increasing and requires a different kind of housing that contains a work environment. Developers may also design and build for different housing preferences, featuring “green,” “conservation,” and other types of development in their projects based on polling efforts before a spade of earth is turned (McCrummen 2006).

Another important influence on PUD and its regulation was the publication in 1998 by APA and the International City/County Management Association of a best-selling influential book, *Best Development Practices* (Ewing and Holder 1998). The book recommended land-use, transportation, housing, and conservation practices now widely used by developers—practices that have found their way into PUD ordinances. *Best Development Practices* did not deal with design issues, but design issues have also become increasingly important. Some of this is just greater attention to good design, but some of it shows the influence of the development model preferred by the new urbanism movement (Arendt 2004).

NEW URBANIST AND DESIGN ISSUES

The current popularity of new urbanist development is evident by the number of books and articles expounding its advantages over develop-

Changes in market demand, development practices, the scale of development, and community expectations have substantially altered the market and policy environment for PUD regulation. These changes need to be considered.

ment produced by conventional zoning. One of its important concepts is a development model of self-contained, self-sufficient communities in which reliance on the automobile is substantially reduced. This objective is achieved by providing internal employment opportunities, improving pedestrian access, and requiring street connectivity to the adjacent grid, eliminating the isolated cul-de-sac that reduces mobility. New urbanism also has specific design standards for homes and buildings that feature front porches and street adjacency, while mandating details all the way down to facade specifics.

New urbanists have not favored PUDs as a means of implementing their community design philosophy, but several PUDs have included the concepts. A town center, mixed uses, street connectivity, and more are featured in The New Town at St. Charles near St. Louis, Missouri.



Used with permission from The New Town at St. Charles

The new urbanist movement attacks traditional zoning as a barrier to the kind of development it would like to see, but it has not favored PUD as a method of implementing its design ideas. It prefers, instead, a detailed “form-based code” that prescribes the new urbanist criteria for development and that applies as-of-right with no need for approval in a review process. Whether a detailed code of this type is desirable is a matter of debate. Some experience with form-based codes shows they can produce unintended and undesirable results (Mitchell 2002). Another option, which some communities have adopted, is to include new urbanist design standards as requirements for the approval of PUD. It is also possible to adopt standards allowing hybrid developments that include both new urbanist and traditional designs (Ewing 2000).

PUD ordinances, like new urbanist codes, contain design requirements intended to avoid look-alike and “cookie-cutter” developments that jurisdictions want to avoid. Anti-monotony requirements that require variations in exterior treatment are one example (Kendig 2004). Comprehensive design standards can also be included that enact general design principles. Some communities have adopted highly sophisticated and detailed design standards in the PUD ordinance that must be applied in development plans (Melby 2005).

RESOURCE PRESERVATION

Demands for natural resource conservation have also influenced the regulation of PUDs. These regulations from the beginning required usable and adequate open space for residents, but the open space required was usually intended for resident activity, with no extensive attention to the preservation of natural resource areas. The publication of Randall Arendt’s book, *Conservation Design for Subdivisions* (Arendt 1996), was an influential event that brought conservation concerns more immediately into land development

practice. Arendt argued for specific attention to the preservation of natural resources. He showed how a subdivision planned for the total buildout of a site could be redesigned to preserve natural resources, yet keep its density in a cluster design that increased densities outside preserved areas. Arendt took the concept of cluster housing a step further by making natural preservation a dominant priority. Communities have followed his lead in PUD ordinances by enacting natural resource preservation and requirements for developers to follow. They have also adopted conservation design subdivision regulations that require the application of Arendt's principles.



Vicky Ranney

The publication of Randall Arendt's Conservation Design for Subdivisions in 1996 was an influential event that brought conservation concerns more immediately into land development practice. Arendt argued for specific attention to the preservation of natural resources. He showed how a subdivision planned for the total buildout of a site could be redesigned to preserve natural resources yet keep its density in a cluster design that increased densities outside preserved areas. This is Prairie Crossing, a conservation subdivision PUD, near Chicago.

CHALLENGES AND CHANGES IN THE REGULATORY ENVIRONMENT

These changes in development practices, and in the variety and character of PUDs, have challenged the regulatory environment in which communities process these developments.

A threshold question is whether the discretionary approval process common to PUDs ordinances is still necessary; that is, if problems exist in the zoning ordinance, why not fix them? If PUD ordinances are intended to produce "better" development and if a community knows what kind of development it prefers, why not draft ordinances that require the "preferred" development and allow that development as-of-right without the need to go through a discretionary approval process? Such an alternative allows up-front agreement on the preferred type of development, and on standards for that development which can then serve as the basis for drafting ordinance standards. Conservation design subdivision ordinances are such an alternative, as are new urbanist codes.

Other critics fault the costs of discretionary review in PUD ordinances, including the cost of delay, the cost of showing compliance with PUD regulations, and the cost of uncertainty created by not knowing when, whether, or how a PUD application will be approved. They argue a zoning ordinance can be written to accommodate the desirable features of PUD without requiring an expensive and time-consuming review process.

Finally, the NIMBY issue often arises; namely, PUDs offering a different style of housing or higher densities sometimes attract community opposition and challenge in a voters' referendum. Process attracts public participation, which is necessary and can be helpful, except that NIMBY opposition often is unjustified, and securing approval over public opposition is difficult. I have heard of difficulties with NIMBY opposition to PUDs everywhere. Allowing PUDs as-of-right avoids this problem.

ORGANIZING SUPPORT FOR THE PLANNED UNIT DEVELOPMENT PROGRAM

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Planned development projects are similar to many others, except they tend to be larger and more complex. These attributes make them targets for opposition. Following just 10 cardinal principles can help win over the opposition and get approvals.

1. Don't Think of The Opposition as "Opposition," but as Potential Allies to Be Won Over

Many developers go into a project approval process believing there will be opposition they must somehow defeat. The reality is that most future opposition can be avoided. The developer and the public advocates supporting the planned development need to start with a positive attitude.

The effort should begin with the objective of having no opposition at the hearing and getting a unanimous decision. The developer must be committed to do everything that is reasonable and not budget-busting or project-killing to satisfy each and every need and desire (no matter how bizarre) of everyone who may have an interest in the project. Some planned development project advocates may say, or think, that such kowtowing to the "opposition" is demeaning or ridiculous, or not required by law, or costs money, or involves extra time, or sets bad precedent for future projects—and most of developers start out saying that, until they experience positive results from addressing the needs of opponents. Meeting the real and perceived needs of the community leads to projects being approved, gets the project into positive cash flow territory, generates local tax revenues more quickly, and earns planned development advocates a reputation as caring people who listen, respond, and accommodate.

2. Have a Plan of Action and Keep It Close to the Chest

First, there must be a plan of action. It may or may not be written, in whole or in part, depending upon the sensitivity of the strategy. However, there must be a plan of some type. Second, the secret details of the plan must remain secret. The plan should not be widely disclosed because it will ultimately leak out. If the plan includes land acquisition and assembly, developers and planners will need to work through one or more layers of business entities to prevent those whose properties are being acquired as part of a larger assembly from leveraging their positions.

In military security, a person must have the necessary clearance to receive confidential information, but they also must have a "need to know." No one involved in the development team should know more than they need to know to do their job. Those who think they are being helpful by widely distributing memos and other status reports to a large development team are simply opening the floodgates to disclosure.

All of the players must be known for the plan to be complete. Part of the action plan, from the market survey through land assembly, should be to identify the key players in the community and address how to approach them.

These key players are important in the process of "grass-tops" organizing, as distinguished from what is the better known technique of "grassroots" organizing. "Grass-tops" organizing is a method of obtaining the support of community leaders, as opposed to the support of the general public

found in "grassroots" campaigns. Don't fall into the populist trap of thinking it is necessary to convince the masses. It isn't. You need to convince the influential leaders.

3. Know the Community's Agenda

Armed with the information about who the real powers are in the community, it is then essential to learn more about the community's agenda(s). Much of it will be as expected. Some of it is often unimaginable.

One of the most straightforward techniques, which can be part of a grassroots organizing campaign, is to do a telephone survey. Another way to find out more about the community's agenda is to conduct one-on-one interviews and focus groups.

Finding out what personal agendas might exist can be extremely important. In one project, a portion of the development required the construction of a stormwater drainage line on the developer's property in a location that required the removal of a large tree on the developer's property. A woman who owned a house abutting the project expressed a concern for that tree to which she had considerable attachment because she had looked at it for many, many years from her kitchen window. She thought it was "hers." The developer's response to this concern was a simple one: no problem, he offered to construct an additional manhole in the stormwater system and divert the pipe around the tree.

Was this crazy? Absolutely not. For the cost of a thousand dollars he turned one of the members of the potential opposition (an abutter with statutory standing to appeal) into a stalwart ally who sang his praises throughout the neighborhood during the time the application was pending before the administrative agencies and ultimately was part of the group that supported the project before the legislative body at its final hearing.

4. Be Willing to Set Aside Perceptions of What Constitutes the Public's Agenda When There Is Better Information

One of the leading causes of aircraft crashes during instrument operations is the pilot's refusal to believe the instruments. If there is good information from the telephone surveys, written surveys, focus groups, individual interviews, and so forth, it is essential to set aside biased perceptions of the public's agenda (even though some will claim they know they are right and the survey data must be wrong) and begin following what is really important to the community.

In one large planned development, the developer was so certain that traffic was going to be the premiere issue that he spent \$80,000 on a computer simulation of traffic flows around the facility. The money was not totally wasted because it was an excellent way to present complex information, but it turned out that the public did not care as much about traffic as it did about their personal safety when parking in the proposed structured parking

With all of the initial discussion of traffic, the proponents had logically pushed the discussion of personal safety down to number five or six in the list of subjects to be presented during the hearings.

(continued)

ORGANIZING SUPPORT FOR THE PLANNED UNIT DEVELOPMENT PROGRAM (continued)

With this new information, the presentation for the hearing was reordered, with the safety issue addressed upfront by credible experts. The public's concerns were largely set aside at the outset and the project was approved.

5. Follow the Guidance of *Getting To Yes* and Make Sure that Trust Is Never an Issue

One of the practical suggestions of "principled negotiation" as set forth in the important book, *Getting To Yes*, is that we should never make trust an issue in dealing with potential adversaries. When planners and developers start asking the neighbors to trust them, they are generally not going to get the support they need. Instead, tell those who might be adversaries that trust is not an issue, that the proponents are prepared to step up to the plate, reduce to writing, and guarantee by bilateral, enforceable contract exactly what the developer and its successors will do and exactly what is expected of them.

6. Hire a Public Relations Professional

Many planners, lawyers, and experienced developers like to feel they know how to put together the right message and communicate it to others. But the fact is most developers and community advocates never go into a major project anymore without a public relations specialist because they have learned so much from them about how to shape their message to win approvals.

Also, the public relations person can do a better job generally than the planner, developer, or the lawyer in keeping communications flowing to the community. A dedicated website is a must today.

7. Do Everything You Can to Keep Members of the Community from "Prematurely" Taking a Public Stance against the Project

Once somebody has "gone public" with their position, it becomes a "face saving" problem to get them to come off that position.

If you think you are going to lose someone's support, you need to do everything you can to get them to hold off announcing their position until you have had a chance to resolve any problems they may have. Planners and developers should even delay the commencement of a hearing and perhaps withdraw an application to avoid someone of importance going public against the project.

Doing that (holding off on a hearing or withdrawing) sends a strong message to the influential person that you really care about their position and you want to work with them.

8. Show You Care

If you show you really care about the interests of people in the community, they will almost always (but not always) respond favorably. This means returning phone calls promptly, being accessible 24/7, meeting people face-to-face, driving out of your way on the way home from work at night to drop off packages of information, keeping everybody fully informed with all types of documentation as to what you are doing, and so forth.

No question about it, it's a big job, but in the long run it takes much less time and much less money to take care of the community's concerns in this way. The most successful planned development proponents are the ones who will take their personal time, especially evenings, to go to the community.

9. Show Gratitude after the Fact

Project advocates need to look forward and think of the project they may have next year or next decade where they will need the community's support. There is nothing more powerful at a public hearing than to bring an abutting or near neighbor from a prior, controversial project and have them testify about how wonderful you were in addressing the community's concerns and how great the project has been since it was completed. And there is nothing better than having opponents see the success of prior projects first hand.

Some surveys of the impact of large-scale projects on single-family residential neighborhoods show no adverse impact on property values. Generally, the most powerful opposition groups to projects come to really like their neighbors when the projects are done.

So when the planned development breaks ground and when it first opens, make sure to hold a ceremonial event and invite everyone, including the toughest opponents, because they ultimately may be advocates later on.

10. Give When It Makes Economic Sense to Give; Do Not Fight for a Position Because You Know Your Position Is the Right One or the Legal One, But Fight Only for that which Makes Economic Sense

If the planned development is in a hot residential market that looks like it may be peaking and there will be a million dollars more profit by getting units constructed and marketed this year rather than next year, it makes sense to spend \$100,000 or even \$500,000 in getting the community satisfied with the project and getting it approved now instead of a year later.

But sometimes it is necessary to fight fire with fire. The opposition may be created and funded directly or indirectly by market competitors. Sometimes people will simply be out to extort money. If people are not willing to deal honestly about their alleged concerns, you are bound to look behind them and try to find out who is the cause of the opposition. There are grave anti-trust implications of some types of opposition, conducted in certain ways, and you should not be reluctant to discover that activity and take action against the miscreants.

It is true that the Noerr-Pennington Doctrine protects much of the opposition, even by market competitors, but sometimes people can go too far, and you need to be able to identify those situations and be prepared to take corrective action.

CONCLUSIONS

These 10 principles are not magic. The commonality is that it takes thinking about the needs of the opposition and working hard to meet those needs to get the planned development project through the approval process.

Whether as-of-right ordinances can produce good projects without the opportunity for discretionary review is another matter, and other critics argue that discretionary review is still needed to obtain really good project design. It is also true that even ordinances with as-of-right standards require interpretation to decide what they mean and sometimes end in judicial review to determine that meaning. A compromise is to enact detailed standards in a PUD ordinance to provide a development format but still require discretionary review of individual projects. Some communities take this approach, but other critics believe it is too rigid and open-ended standards are preferable.

FITTING PUD INTO THE SURROUNDING COMMUNITY

PUDs, especially larger projects, have an impact on the surrounding community, and can create jobs, housing, and traffic problems. When a PUD is limited in scale, its external impacts are likely to be minimal, especially if it includes only single-family residential development with no increase in density, as in cluster zoning. These developments should not generate substantial additional traffic, should not make new demands on public facilities, such as schools, and should not notably affect the jobs/housing balance. There should be no question of consistency with the plan if a residential PUD is in a neighborhood previously designated by the plan for residential use.

The impact of a PUD is often a source of contention with surrounding residents. When a PUD is limited in scale, however, that impact is likely to be minimal, especially if the PUD includes only single-family residential development with no increase in density, as can be provided for with cluster zoning. There should be no question of consistency with the plan if a residential PUD is in a neighborhood previously designated by the plan for residential use. This is The Glen PUD near Chicago.



Daniel R. Mandelker

All this changes once a PUD does not comply with existing zoning by changing the authorized housing type, increasing densities, or introducing nonresidential uses. Modest density increases and the introduction of limited nonresidential uses may not have a significant effect on traffic congestion, the adequacy of public facilities, or the character of the surrounding area, but major changes in use and density will. The problem is even more serious in undeveloped outlying areas where a developer proposes a large-scale master-planned community.

PUD ordinances can include requirements to take these problems into account. One is a jobs/housing balance requirement that requires an adequate balance of jobs and housing to reduce effects on the community outside the project. Another is a requirement that a PUD must provide an adequate amount of affordable housing so that housing will be available for persons who cannot afford market-rate housing (Weitz 2003). Ordinances can also address the traffic problem by requiring a development to capture internally

the traffic it generates. A number of communities have an adequate public facilities requirement for all new development to ensure the development will not occur unless adequate public facilities are available. PUD ordinances can also include their own adequate public facilities requirement.

THE ROLE OF THE COMPREHENSIVE PLAN

The role of the comprehensive plan in the review of PUDs is closely tied to whether they will have impacts on the community at large. They may then have a major effect on growth and development and the adequacy of public facilities, issues considered in the comprehensive plan. Consistency with the comprehensive plan should then be required. Statutory mandates for a comprehensive plan, and statutory requirements that land-use regulations be consistent with a comprehensive plan, are becoming more common. PUDs must be consistent with the plan in states that require it, and consistency can be required by ordinance even with no statutory mandate. Some PUD regulations require projects to be consistent with a comprehensive plan, but often there is little detail or guidance on what consistency means, and the comprehensive plan may not include policies for PUDs.

This latter situation is not a good one. If a community expects to have PUDs and master-planned communities on a major scale, it needs to plan in advance to integrate them into its development and public facility policies. This can be done by providing a development framework that shows where they should be located and how the necessary public facilities and services will be supplied. The plan can also provide essential design policies, such as a design policy for project development that will ensure the development of communities that implement the plan. Densities, the mix of uses, and other design elements that will shape the character of PUDs can be further identified. The PUD ordinance can then implement the plan with more detailed standards and requirements and can require consistency with the plan.

THE ADVANTAGES OF MASTER-PLANNED COMMUNITIES AS A DEVELOPMENT ALTERNATIVE

Master-planned communities raise smart growth questions. Though smart growth proponents support PUDs as infill in urban centers, they oppose sprawl development at the urban edge, and some consider the master-planned community an unsuitable form of urban sprawl. This objection needs consideration because master-planned communities have many advantages as a development alternative that regulations can support to obtain a more desirable living environment.

One problem with this argument is that infill development in urban centers cannot meet all anticipated development needs; in other words, master-planned communities are needed as development alternative (Priest 2002). And development at the edge will not create urban sprawl if growth management programs limit sprawl through urban growth boundaries and the careful placement of self-contained satellite communities. In this kind of development framework, the scale of master-planned communities provides good opportunities to achieve hoped-for planning objectives. As Donald Priest points out:

The large scale of sites to be developed gives development planners great flexibility in arranging land uses. This greatly enhances the opportunities to establish compatibility between the needs of man and nature. This is a major advantage, considering the planning constraints that apply to small-scale projects. Planning at a large scale necessitates evaluation of natural systems and environmental impacts at a large scale. It also leads to the evaluation of more alternative development possibilities. Indeed, the assessment of the suitability of land for development is the starting point for planning large-scale projects. These actions provide the basis for plans that ensure that the communities will represent the best expressions of the principles of sustainable development. (Priest 2002, 12)

The scale of master-planned communities provides good opportunities to achieve hoped-for planning objectives.

Priest also argues that large-scale development provides better opportunities to protect natural resources because environmental protection and conservation measures are more easily carried out in large-scale developments. They also have the necessary scale to:

- provide mixed uses and a variety of housing types;
- create a jobs/housing balance;
- reduce trip lengths;
- use infrastructure and transportation facilities efficiently and responsibly; and
- respond to consumer preferences in housing.

These comments underscore the importance of scale in regulating PUDs, and the need to have more than one PUD option when development at dramatically different scales is expected. They also provide a different perspective on whether there should be a minimum size for PUDs. The issue is not whether a minimum size is necessary, but, rather, a community should mandate different minimum sizes for different kinds of PUDs if size is an issue.

HOW THIS REPORT WAS DONE AND WHAT IT INCLUDES

The purpose of this report is to provide recommendations on how PUD ordinances can be drafted and to review the case law and state statutes that authorize the regulation of PUD as a development technique. There is no all-purpose model of PUD regulation. Communities will need to make choices about which review process to use and which substantive standards should apply. This report recommends a number of alternatives for PUD regulation that communities can consider.

In preparing this report, I did a literature search on PUDs as well as telephone and on-site interviews with planners, developers, and local government officials in different parts of the country. I also interviewed planning consultants who have a wide national experience in writing and implementing PUD ordinances. Typical PUD ordinances, graphics, and other materials were collected, and ordinances were extensively searched on the web.

Chapter 2 provides an overview of the issues a community must consider when it decides to adopt a PUD ordinance. Chapter 3 provides recommendations on process, and Chapter 4 provides recommendations on substantive standards. Chapter 5 discusses the case law. Chapter 6 reviews statutory authority. A CD-ROM accompanying this PAS report includes graphic material, such as maps and photographs, development plans and agreements, articles, statutory materials, and electronic files of Chapters 4 and 5 to facilitate the extraction of regulatory language that communities may find suitable for use in their PUD standards. As always, consult with your local land-use attorney to make certain that the language complies with all applicable law in your state and local jurisdiction.

CONCLUSION

PUD has clearly changed from a modest attempt to provide flexibility, better design, and open space in residential development to a major land-use program that can create developments for both small-scale infill spaces and large master-planned communities on the urban fringe. Its content has also changed to place new emphasis on design, natural resource preservation, social objectives, and the implementation of land development policies included in comprehensive plans. It is an exciting change in the way we use our land that requires careful analysis and attention.

Planning fundamentals for public officials and engaged citizens

This PAS QuickNotes was prepared by
APA research staff with contributions
from national planning law experts.

QUICKNOTES

Understanding Planned Unit Development

A planned unit development (PUD) is a large, integrated development adhering to a comprehensive plan and located on a single tract of land or on two or more tracts of land that may be separated only by a street or other right-of-way. PUD is a form of development that, although conceived decades ago, can be used today to advance a number of important smart growth and sustainability objectives. PUD has a number of distinct advantages over conventional lot-by-lot development. Properly written and administered, PUD can offer a degree of flexibility that allows creativity in land planning, site design, and the protection of environmentally sensitive lands not possible with conventional subdivision and land development practices. Moreover, properly applied, PUD is capable of mixing residential and nonresidential land uses, providing broader housing choices, allowing more compact development, permanently preserving common open space, reducing vehicle trips, and providing pedestrian and bicycle facilities. In exchange for design flexibility, developers are better able to provide amenities and infrastructure improvements, and find it easier to accommodate environmental and scenic attributes.

PUD is particularly useful when applied to large developments approved in phases over a number of years, such as master planned communities. PUDs are typically approved by the local legislative body (city council, board of supervisors, county commissioners) after a comprehensive review and recommendation by the planning board or commission, which normally includes a public hearing. Communities considering adoption of a PUD ordinance should be mindful that while planning boards and commissions are given a good deal of discretionary power in acting on PUDs, appropriate standards are essential. Moreover, a delicate balance must be found between the desire to be flexible in order to take into account unique site characteristics and the need to spell out concrete standards and criteria.

WHY PLANNED UNIT DEVELOPMENT IS POPULAR

PUD has grown increasingly popular, in part because standard subdivision and zoning ordinances have serious limitations. Many older vintage zoning ordinances prohibit mixed use. Single family, multifamily, and nonresidential uses are often not allowed in the same zoning district. Older conventional ordinances also contain uniform site development standards that tend to produce monotonous outcomes. Subdivision control ordinances deal with narrow concerns, such as street, curb, and sidewalk standards and lot and block layout. The lack of meaningful amounts of well-placed, accessible open space and recreational amenities is another shortfall of conventional development controls.

TYPES OF PLANNED UNIT DEVELOPMENT

Planned unit developments can take many forms, ranging from modest residential developments where housing units are clustered and open space is provided, to mixed use master planned communities that cover thousands of acres.

Simple Residential Cluster. Simple cluster subdivisions allow smaller lots on some parts of the site in exchange for permanently preserved common open space elsewhere on the site. Planning boards or commissions normally require the open space to be configured in a manner to protect sensitive natural features such as streams and riparian areas, vernal pools, ponds, and lakes, and to take into account hazard areas and areas of steep slope.

Communities may either limit the gross density of the tract to what would be permitted under conventional zoning, or may choose to offer a density bonus allowing more units than would other-

Matt Green



Showcasing a 120-acre regional multi-purpose public park, pedestrian-friendly design, and a 1500+ acre wetland system, the Buckwalter PUD and the Buckwalter Place urban center in Bluffton, South Carolina promote multiple aspects of sustainable development.



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wise be allowed. By allowing a bonus, the community can require a greater percentage of the tract as common open space. Theoretically, communities can choose to allow any residential type (or combination of types) on a parcel in the cluster plan—single-family houses, attached houses, town houses, garden apartments, or high rises. As a practical matter, however, cluster subdivisions are developed mostly for single-family homes on individual lots.

Mixed Uses. PUD builds on the simple residential cluster idea by allowing nonresidential uses, often at higher densities. Retail and service establishments, restaurants, schools, libraries, churches, recreation facilities, offices, and even industrial uses can be included in PUDs. Downtown or village center development with apartments above shops and live-work arrangements are also possible. The extreme case is the master planned community, which usually involves substantial acreage and combines employment, office, retail, and entertainment centers with associated self-contained neighborhoods. This can include diverse housing types as well as retail, entertainment and office centers.

WHICH ORDINANCE, WHICH AGENCY?

Individual state planning statutes control how communities handle the deliberative process leading to a decision about a PUD. In most states a PUD provision can be made part of the zoning ordinance or it may be written as a stand-alone ordinance. In either case, the decision to approve, approve with conditions, or disapprove a PUD falls to the legislative branch of local government. Some communities permit a PUD through a discretionary review process, such as a conditional or special use permit. These permits can be approved by the legislative body, planning commission, or board of adjustment, depending on the state enabling legislation and local policies. Some communities provide for the administrative approval of mixed use developments that normally require a discretionary PUD process.

The zoning ordinance is the most appropriate place to locate planned unit development regulations. Basic legislative decisions on use and density are normally the responsibility of the legislative body. Street design and infrastructure could also be resolved through PUD approval, though these considerations are normally built into a unified development ordinance. Decisions about plan details can be left to the planning board or commission and planning staff.

ZONING FOR PUD

Communities face a number of questions when deciding how to fit planned unit development regulations into their zoning ordinances. One alternative is to provide for planned unit development as-of-right. Under this guideline the ordinance would specify the requirements for a planned unit development, and discretionary review and approval procedures would not be necessary.

Stand-alone PUD ordinances are now fairly common. Although there are variations, a typical ordinance will include a purpose clause; a statement of the type or types of PUD that are authorized; zoning procedures; and standards for approval. The ordinance may contain definitions.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

Consistency with the comprehensive plan should be required, especially if the PUD has a major effect on growth and development in the community and on public facilities. This will be true of master planned communities. Many statutes now require zoning to be consistent with a comprehensive plan, and consistency can be required by ordinance even if there is no statutory mandate.

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