

COLONIE LAND USE LAW
ADOPTED 1-4-07 by LOCAL LAW #1 of 2007

ARTICLE XIII - CHAPTER 190-13 (as last amended 6/28/07 by LL#10-07)

Planned Development District

A. Intent.

- (1) Planned Development Districts (PDD) provide a procedure for allowing flexible land use and design for parcels where the objectives of Colonie's zoning and planning documents can be achieved by creative planning and design. PDDs allow for development that is matched to the unique characteristics of its site and allow for innovative development techniques that might not otherwise be possible through strict application of standard use, area, bulk and density specifications.
- (2) Approved PDDs will enable greater flexibility than conventional zoning while providing a customized regulatory framework that recognizes the unique environmental, physical, and cultural resources of the project area and neighborhood. PDD legislation adopted by the Town Board will replace the existing zoning for the affected parcel or parcels and will become the basis for detailed design, review and control of subsequent development.
- (3) Planned Development Districts shall advance the goals of the Comprehensive Plan, promote innovation in the design and layout of structures and encourage compact, pedestrian-oriented development and redevelopment, ensure adequate provision of community services, and preserve significant natural features and permanently protect open space resources.
- (4) While flexibility is encouraged, it is intended that conformance with the Comprehensive Plan, municipal service availability and the purposes of this chapter, shall ensure that the general welfare is protected through equal treatment under this uniform procedure. The Town Board shall consider the health, safety and welfare of the residents, as well as the aesthetics of all proposed project approvals.

B. Objectives.

In order to carry out the intent of this Article, all approved PDDs shall:

- (1) Provide an adequate and integrated system of open space and recreation areas designed to tie the PDD together internally and link it to the larger community.
- (2) Preserve significant natural topography and geologic features.
- (3) Prevent soil erosion and uncontrolled surface water drainage.
- (4) Preserve and integrate historically significant structures and sites with viable adaptive uses.

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- (5) Use land efficiently, resulting in smaller networks of streets and utilities and thereby lower development and maintenance costs.
- (6) If residential in land use, provide a choice in occupancy tenure (eg individual ownership, leaseholds, condominiums), type of housing (e.g. detached houses, townhouses, garden apartments), lot size and community facilities available to existing and potential town residents.
- (7) Use creative design and site planning of a quality that will improve the functional relationships between buildings and uses.
- (8) Produce a development pattern that is consistent with the goals and objectives of the town.

C. General Standards.

- (1) Generally. In accordance with the criteria set forth below, the existing use, dimensional, sign and parking regulations may be altered in order to establish a planned development district provided however that the following standards are met.
- (2) Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or legal entity or by a group of individuals or entities. An application must be filed by the owner or jointly by the owners of all property included in the project. In the case of multiple owners, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.
- (3) Water Supply and Sewage Disposal. PDDs which include a significant number of residential units shall be served by a community water system and be provided with sewage disposal facilities in accordance with the requirements of the Town, the County and the New York State Departments of Health and Environmental Conservation.
- (4) Open Space Requirements. Common open space totaling not less than 35% of the total Planned Development District shall be provided in perpetuity. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas, garages, carports and other features. A property owners' association or similar mechanism for the long-term ownership and maintenance of this common open space shall be provided, subject to the approval of the Town Planning Board, and the establishment of a conservation easement or other encumbrance to further ensure the protection of this open space may be required.

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D. Preliminary Application.

The Applicant shall have the option to provide a preliminary application to the Planning and Economic Development Department (PEDD) before formal application is made. The preliminary application shall be used for sketch plan review. A conceptual plan of the proposed PDD may be submitted and discussed with the PEDD prior to the submission of a formal application. The preliminary application shall include:

- (1) A map identifying the boundaries and physical characteristics of the proposed PDD.
- (2) A conceptual plan including a succinct narrative of the intent and attributes of the proposed district(s) that describes the location, conceptual design, and use of any lots and structures.
- (3) The proposed amount, location and use of open space.
- (4) Any anticipated changes in the existing topography and natural features.
- (5) The location of the site with respect to nearby streets, rights-of-way, adjacent properties, easements and other pertinent features within 200 feet.
- (6) The applicable fee.

E. Formal Application.

After sketch plan review is complete if a preliminary application was made, or as the first application, a formal application for establishment of a Planned Development District shall be made in writing to the Town Board. The Town Board, if it chooses to consider the rezoning request, shall refer the application to the Planning Board and, if necessary, to its designated planning and engineering consultants for review and recommendation.

The formal application process shall be the same process as required for major site plan review.

F. Required Findings.

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

- (1) That the PDD is consistent with the purpose and intent of this Chapter including the Design Standards.
- (2) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the Comprehensive Plan.

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- (3) That the requirements of SEQRA have been fulfilled, and the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable.
- (4) That the PDD will add to the long-term assets of the community and will not erode the livability or economic viability of existing neighboring areas.
- (5) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection.
- (6) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.
- (7) That the proposal is conceptually sound in that it meets local and area-wide needs and it conforms to accepted design principals in the proposed functional roadway and pedestrian system, land use configuration, open space system, drainage system and scale of elements, both absolutely and to one another.
- (8) That there are adequate community facilities, services and utilities available or proposed to be made available in the construction of the development.
- (9) That traffic will not have an adverse impact on the adjoining transportation system.

G. Town Board Action.

Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal establishment of the Planned Development District through a Zoning District Map amendment.

The Town Board, if it wishes to consider the requested amendment, shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.

The Town Board may, if it believes it necessary in order to fully protect the health, safety and general welfare of the community, attach to its zoning resolution additional conditions or requirements the applicant must meet. Such requirements may include but are not limited to:

- (1) Visual and acoustical screening.
- (2) Modification to land use mix.
- (3) Schedule of construction of occupancy.
- (4) Pedestrian and vehicular circulation system.
- (5) Parking and snow removal.

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- (6) Sites for public service.
- (7) Protection of natural and/or historical features.
- (8) Provision of or funding for significant amenities and/or open space on or off site.

H. Site Plan Review.

Site Plan Review of building projects within an established PDD shall be the same process as required for major site plan review. However, prior to final approval the Planning Board shall present the application to the town board for its review for the purpose of ascertaining that the finalized plans are consistent with the conceptual plans used for the rezoning of the parcel to the PDD.

I. Subdivision Review.

Applications for subdivision in a Planned Development District shall be made to the Planning Board in accordance with this Chapter. In the event of a conflict between the Subdivision Article of this Chapter and this Article or any requirement imposed hereunder, the provisions of this Article for such requirements shall apply.

J. Conditions to Run with the Land.

All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

K. Existing Rights Preserved.

Any use lawfully occurring in any Planned Development District (formerly known as Planned Unit Development) in existence on the effective date of this Chapter shall be permitted to continue and any buildings, appurtenant structures or facilities accommodating such uses may be renovated, repaired and maintained without being subject to the provisions of this Article, provided that any change in use or new or additional building project shall be so subject. Applications pending on the effective date hereto for a building project in an existing or proposed Planned Development district shall continue to be reviewed and acted upon by the administrative board conducting such review and final action of such board shall be deemed to be a recommendation to the Town Board hereunder.

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L. Other Provisions

- (1) PDD Legislation Repealer. The Town Board may act to return the property to its prior zoning district classification if it finds that:
 - (a) Performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.
 - (b) The PDD approval has expired by the failure of the Applicant to make substantial and continuing progress in the development of the project for more than three years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Town Board which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.

If a planned development district is repealed, any buildings constructed or used may continue as a non-conforming use and such shall continue to be bound by the previous PDD approval.

- (2) Existing PDDs Grandfathered. Any Planned Development District (formerly known as Planned Unit Development District) legally created prior to the adoption of this Chapter shall remain in full force and effect subject to the conditions and requirements expressed in its approval by the Town Board, unless action is taken by the Town Board to modify said conditions or requirements or to change the District classification.