

## **Article 6: Development Permits**

### **Division 6: Planned Development Permit Procedures**

*(Added 12-9-1997 by O-18451 N.S.)*

#### **§126.0601 Purpose of the Planned Development Permit Procedures**

The purpose of these procedures is to establish a review process for *development* that allows an *applicant* to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. The intent is to encourage imaginative and innovative planning and to assure that the *development* achieves the purpose and intent of the applicable *land use plan* and that it would be preferable to what would be achieved by strict conformance with the regulations.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

#### **§126.0602 When a Planned Development Permit May Be Requested**

- (a) The following types of *development* may be requested with a Planned Development Permit decided in accordance with Process Three.
  - (1) *Development* in accordance with Section 143.0465 where the applicable *land use plan* recommends a Planned Development Permit be processed if another discretionary action is also requested; or
  - (2) *Development* in accordance with Section 143.0403(a) that complies with the applicable *land use plan*, but contains uses that are not permitted in the underlying base zone.
- (b) The following types of *development* may be requested with a Planned Development Permit decided in accordance with Process Four.
  - (1) *Development* that does not comply with all base zone regulations or all development regulations (except as permitted in accordance with Section 126.0602(a)(2)), or that proposes to exceed limited deviations allowed by the regulations in Chapter 14, as described in Section 143.0410, except that if the *development* is affordable housing, an infill project, and/or a sustainable building as described in Section 143.0915, it may be permitted with Neighborhood Development Permit decided in accordance with Section 126.0603.

- (2) Rural Cluster *development* in the OR and AR zones, as described in Section 143.0402.
  - (3) Provision of off-site affordable *dwelling units* in accordance with Section 143.0745.
  - (4) *Multiple dwelling unit development* requesting increased *density* where the *land use plan* expressly provides for increased *density* with the approval of a Planned Development Permit, except that if the *development* is affordable housing, an in-fill project, and/or a sustainable building as described in Section 143.0915, it may be permitted with a Neighborhood Development Permit decided in accordance with Section 126.0603.
- (c) The following types of *development* may be requested with a Planned Development Permit to be decided in accordance with Process Five.
- Rural cluster residential *development* in the AR-1-1 and OR-1-2 zones that proposes a *density* that exceeds one dwelling unit per 10 acres but is not more than one dwelling unit per 4 acres, with no potential for *development* on the remainder of the *premises*, as described in Section 143.0402.
- (Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.)*
- (Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)*
- (Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*
- (Amended 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)*
- (Amended 9-15-2017 by O-20856 N.S.; effective 10-20-2017.)*
- (Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

**§126.0603      Reduced Permit and Processing for Affordable Housing, In-Fill Projects, and Sustainable Buildings**

*Development* consistent with the affordable housing, in-fill projects, and/or sustainable buildings regulations in Section 143.0915 that requires a Planned Development Permit in accordance with Sections 126.0602(b)(1) and 126.0602(b)(4) may be permitted with a Neighborhood Development Permit decided in accordance with Process Two, provided the *findings* in Section 126.0404(a) are made. In the event that a deviation is requested, the supplemental *findings* in Section 126.0404(f) shall also be made.

*(“Exemption from a Planned Development Permit” added 9-15-2017 by O-20856 N.S.; effective 10-20-2017. Former Section 126.0603 “Decision Process for Planned Development Permits” renumbered to Section 126.0604.)*

*(Retitled from “Exemption from a Planned Development Permit” to “Reduced Permit and Processing for Affordable Housing, In-Fill Projects, and Sustainable Buildings” and amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

**§126.0604      Decision Process for Planned Development Permits**

- (a) A decision on an application for a Planned Development Permit for the type of *development* listed in Section 126.0602(a) shall be made in accordance with Process Three. The decision may be appealed to the Planning Commission in accordance with Section 112.0506.
- (b) A decision on an application for a Planned Development Permit for the types of *development* listed in Section 126.0602(b) shall be made in accordance with Process Four.
- (c) A decision on an application for a Planned Development Permit for the *development* listed in Section 126.0602(c) shall be made in accordance with Process Five.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Renumbered from Section 126.0603 on 9-15-2017 by O-20856 N.S.; effective 10-20-2017. Former Section 126.0604 “Findings for Planned Development Permit Approval” renumbered to Section 126.0605.)*

**§126.0605 Findings for Planned Development Permit Approval**

A Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0605(a) and the supplemental *findings* in Section 126.0605(b)-(c) that are applicable to the proposed *development* as specified in this section.

(a) Findings for all Planned Development Permits

- (1) The proposed *development* will not adversely affect the applicable *land use plan*;
- (2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
- (3) The proposed *development* will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

(b) Supplemental Findings--*Proposition A Lands*

A project involving rural cluster in the AR-1-1 zone or the OR-1-12 zone within *Proposition A Lands* where increased *density* is proposed may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0605(a):

- (1) The proposed *development* will assist in accomplishing the goal of permanently preserving lands designated as part of the through the provision of public and private open space easements or *dedications*;
- (2) The proposed *development* will not foreclose future decisions regarding the size of major primary arterials, expressways, or *freeways* that may traverse the property;
- (3) The proposed *development* will be adjacent to areas presently served by water and sewer lines, thereby avoiding leapfrog *development*;

- (4) The proposed *development* will be at least fiscally neutral, thereby not imposing a burden upon the City's capital and operating budgets;
  - (5) The proposed *development* will provide housing on the property affordable to lower income *families*, as certified by the San Diego Housing Commission;
  - (6) The proposed *development* comprehensively addresses framework planning issues including land use, character, and scale of *development*; environmental resources; and public facilities and the increase in *density* will not adversely affect the biological goals and objectives of the Multiple Species Conservation Program Subarea Plan;
  - (7) Within *Proposition A Lands* the proposed *development* will be consistent with the approved subarea plan; and
  - (8) The *applicant* and property owner have agreed in a recorded document that in return for the present increase in *density* granted by the City Council, no future *development* rights shall remain on the property.
- (c) Supplemental Findings--Off-site Affordable *Dwelling Units*

A *development* using the Affordable Housing Density Bonus Regulations that proposes to locate affordable *dwelling units* off-site in accordance with Section 143.0745(b) may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0605(a):

- (1) The location of the off-site affordable *dwelling units* will provide comparable or superior access to transit. Factors to be considered include, but are not limited to, the number, frequency, and destination of transit routes within one-half mile of the *development*;
- (2) The location of the off-site affordable *dwelling units* will provide comparable or superior access to employment opportunities. Factors to be considered include, but are not limited to, distances and transit availability to regional centers, subregional employment areas and industrial areas;

- (3) For non-age restricted *development*, the location of the off-site affordable *dwelling units* will provide comparable or superior access to *schools*. Factors to be considered include, but are not limited to, the number of *schools*, the educational levels of the *schools*, whether the *schools* are private or public, whether the *schools* are vocational, and the travelling distances between the *schools* and the *development*; and
- (4) The off-site affordable *dwelling units* are located in a census tract with an average income level that is no more than 5% lower than the census tract of the *development*.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)*

*(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*

*(Retitled from "Findings for Planned Development Approval" to "Findings for Planned Development Permit Approval" and amended 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)*

*(Renumbered from Section 126.0604 on 9-15-2017 by O-20856 N.S.; effective 10-20-2017. Former Section 126.0605 "Violations of a Planned Development Permit" renumbered to Section 126.0606.)*

## **§126.0606 Violations of a Planned Development Permit**

It is unlawful for any person to maintain, use, or develop any *premises* without a Planned Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Planned Development Permit, except as provided in Sections 126.0112 or 126.0113. Violations of any provision of this Division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violation of this Division shall be treated as strict liability offenses regardless of intent.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Renumbered from former Section 126.0605 on 9-15-2017 by O-20856 N.S.; effective 10-20-2017.)*

*(Amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)*