

[Amendment to the Town of Dewey-Humboldt Planning and Zoning Ordinance:]

SECTION 440 PAD OVERLAY

PLANNED AREA DEVELOPMENTS

A. Purpose: A Planned Area Development (PAD) Overlay is intended:

1. To provide for various types and combinations of land uses (such as single and multi-family housing, golf course developments, and public spaces) through the adoption of a development plan.
2. To establish planning and development control parameters while allowing sufficient flexibility to permit final detailed planning at the time of actual development, and to permit flexibility in design, placement of buildings, use of open spaces, etc.
3. To encourage and permit unified planning to achieve a compatible mixture and variety of land uses within the PAD Overlay and with the existing and anticipated development in the surrounding area.
4. To accomplish the purpose of zoning and other regulations to an equivalent or higher degree than where such regulations are designed to control development on individual lots.
5. To promote economical and efficient land use, an improved level of amenities, appropriate and harmonious variety, creative design, and a better environment.

PAD Overlays may be established where tracts suitable in location, area, and character for the uses and structures proposed will be planned and developed on a unified basis. Suitability of tracts for the development proposed shall be determined with reference to the General Plan and to the existing and prospective character of surrounding development.

B. Scope:

1. A PAD may proceed by increments to be called "development units."
2. The PAD Overlay is intended to be overlaid onto any combination of the specified Zoning Districts included within the Town Planning and Zoning Ordinance, and the PAD designation shall control the land use regulations otherwise permitted within the Districts, as set forth herein. The permitted uses allowed, the yard, height, and area requirements, and other requirements within the Overlay shall be those permitted or required within the appropriate Zoning District with which the PAD Overlay is combined, except where modified. For example, if the PAD allows for multiple family dwellings then yards, fences, storage, etc. shall follow the regulations of the applicable Zoning District, which is R2. In another example, if a developer wishes to increase density and use the PAD Overlay, the developer would first process the zoning change for the underlying zoning density, and then bring the PAD Overlay application. Where there are conflicts between special PAD regulations and the general zoning or other regulations, these PAD regulations shall apply in the PAD Overlay unless the Commission shall find, in the particular case, at the time of rezoning application, that these provisions do not serve the public to a degree at least equivalent to such general zoning, or other regulations.

3. Where actions, designs or solutions are not literally in accord with applicable PAD or general regulations, but the Commission makes a finding in the particular case that the public is served to an equivalent or greater degree, the Commission may recommend specific modification of the regulations.

C. Planned Area Development Defined: For the purpose of this Ordinance, a PAD shall:

1. Be a single development operation or a definitely programmed series of development operations which can be one type of land use or a mixture of land uses.
2. Be developed according to comprehensive and detailed plans that include the locations of streets, utilities, lots, building sites and other uses; also site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings.

D. Uses Permitted:

1. Single-family dwellings, two-family, multi-family; detached, semi-detached, and attached and accessory uses.
2. Community facilities, such as schools, parks, and playgrounds.
3. Clubs not operated primarily for commercial purposes.
4. Golf courses in accordance with performance standards as set out in Section 534.
5. Manufactured home parks and subdivisions in accordance with the provisions of this Ordinance and any additional requirements the Commission or Council may deem necessary to fulfill the intent of these requirements.
6. Home occupations when indicated as part of the development plan or when in accordance with the provisions of this Code.
7. Accessory uses and structures; such uses and structures may be located in the front one-half (1/2) of a lot, provided they are not nearer the front lot line than the main building or buildings.
8. Public utility installations.
9. Signs when submitted as part of the development plan or when in accordance with this Code.

In considering a proposed PAD, the Commission may approve modifications of these requirements to the Town Council. Justification for such modification shall be supplied by the applicant in written form as part of the hearing application procedure.

E. General Provisions: General provisions standards, requirements, regulations, and changes to densities are intended to ensure compatibility. The Commission may recommend to the Town Council modification of such standards, requirements, regulations, and changes to densities. The layout and design shall be subject to the following limitations:

1. Maximum Lot Coverage: A combination of all of the proposed uses shall not exceed a maximum building coverage of fifty percent (50%) of the total area, except

in the case of a PAD located within or abutting another Zoning District which allows a greater coverage, then the greater coverage allowances may apply.

2. Open Space:

a. A minimum of twenty-five percent (25%) of the total gross site area, that is intended to provide light and air, and is designated and designed for resource protection, buffers, drainage ways, environmental, scenic, or recreational purposes. Common open space lands shall be clearly designated on the plan to include the character of use and development, and may be public or private or some combination of both, and shall not include private residences/structures, required yards, driveways, parking lots, streets, alleys, public rights-of-way or other surfaces intended or designed for vehicles. Decorative lakes (including those that contain treated effluent) may be included in the calculation for open space.

b. Whether private or dedicated to the public, it shall be the responsibility of the developer to ensure that the open space is protected in perpetuity by legal arrangements, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions and any other specifications deemed necessary by the Commission and Town Council.

3. Zero lot line setbacks may be allowed under the following circumstances:

a. The lot adjacent to the zero-setback side yard must be under the same ownership at the time of initial construction (ensuring that a developer does not infringe on the property rights of owners of adjacent tracts).

b. The setback on the adjacent lot must be either zero feet or greater than ten feet (10').

c. The opposite side yard of not less than ten feet (10') must be kept perpetually free of permanent obstructions (such as a storage shed or a fence without a gate).

d. Similar zero lot line exceptions can be made for the rear yard, but not for both the side and rear yards of the same lot.

e. A five foot (5') maintenance easement along the boundary of the zero lot line must be identified on the site plan.

4. Non-motorized trails shall be considered and may be incorporated into the design of vehicular and pedestrian traffic ways where possible, and connect to off-site non-motorized trails.

5. All public streets within or abutting the proposed PAD shall be dedicated and improved to Town specifications for the particular classification of street. When the developer desires to retain any streets within the development as private streets, these streets shall be constructed to Town standards, permanently reserved and maintained for their intended purpose by means acceptable to the Town Engineer. Other forms of access, such as, pedestrian ways, courts, plazas, driveways or open parking lots shall not be offered for dedication.

6. PADs shall relate harmoniously to the topography of the site, shall make suitable provision for the preservation of watercourses, drainage areas, wooded areas, rough terrain and similar natural features and areas and shall be designed to use and retain these natural features and amenities to the best advantage.

7. All utilities within a PAD shall be placed underground.

a. A common central television antenna or receiver may be provided with underground cable service to all dwelling units.

b. For the purposes of this Section, appurtenances and associated equipment such as, surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets and concealed conduit in an underground system may be placed above ground.

F. Other Requirements: The Commission and/or Town Council shall insure that the public welfare and safety is preserved, and that provision is made for harmonious and appropriate development of the land by requiring as needed:

1. Declaration of public use space for parks, schools, recreation areas, etc.
2. Coordination of street layout with existing or planned streets.
3. Preservation of natural features, such as trees, hilltops, watercourses, and archeological sites.

4. Architectural plans of building design in addition to a comprehensive plan for the development.

5. Proof of adequate sanitary sewage and water systems.

6. Adequate fire protection.

7. Schedule of plan implementation.

8. Additional issues of public interest.

9. Proof of adequate water entitlement and sustainable availability.

G. PAD Amendments: The following procedures shall be followed for any amendment to a PAD including amendments to the Development Phasing Schedule.

1. Major Amendments:

a. A PAD Overlay applicant or his successors in interest may file a request for a major amendment with the Community Development Department.

b. The change will be deemed major if it involves any one (1) of the following:

(1) An increase in the approved totals of dwelling units or gross leasable area for the PAD Overlay.

(2) A significant change in zoning boundaries as determined by the Town Manager or designee from those approved for the PAD Overlay.

(3) Any change which could have significant impact on areas adjoining the PAD as determined by the Town Manager or designee.

(4) Any change which could have a significant traffic impact on roadways adjacent or external to the PAD as determined by the Town Manager or designee.

c. The Community Development Department will bring the major amendment before the Commission and Town Council and will submit background material relevant to the request.

2. Minor Amendments:

a. A PAD Overlay applicant or his successors in interest may file a request for a minor amendment with the Community Development Department if the Town Manager or designee determines that the request is not major, as defined above.

b. The request will be routed for comment to any affected Town departments or other agencies for comment.

c. Upon receipt of comments or no later than ten (10) working days, the Town Manager or designee will determine whether to approve or deny the requested change.

d. If the requested change is approved, a letter of approval will be mailed to the applicant with a copy filed for public record.

3. Interpretations: In the event that it becomes necessary to interpret stipulations within the PAD Overlay, the Commission and Town Council shall hold a hearing and make such interpretations.

H. Procedures: Every PAD Overlay approved under the provisions of this Section shall follow the procedure for a Zoning Map Change as set out in the Town Planning and Zoning Ordinance and shall comply with the requirements of this Section.

1. Application: An application to establish a PAD project shall be filed by the owner or owners having title to all of the property in the area proposed for the PAD, the agent for the owner having appropriate authorization, or the Town. Every application shall be accompanied by a fee as required.

2. Master Plan:

a. In establishing a PAD, a master plan of the entire area to be developed shall be required as part of the rezoning application. In addition to the requirements of a Zoning Map Change, the submittal requirements of the master plan shall conform to the submittal requirements of a Sketch Plan (Subdivision Code **§§ 4.B.5** and following).

b. If a PAD is to be developed in phases or development units, separate hearings for the platting process shall be held to review each phase according to the standards set out for plats in the Town Subdivision Regulations.

c. Each phase/plat must be in substantial conformance to the approved master plan and Sketch Plan/Zoning Map Change.

d. An approved site plan shall be binding upon applicants and their successors or assignees. No building permit shall be issued for any building, structures or use, not in accordance with the site plan, except that temporary construction facilities shall be permitted.

3. Application Submittal Requirements for a Minor Amendment to a PAD:
 - a. A site plan depicting the existing conditions of the PAD and proposed amendment.
 - b. A letter of intent, explaining the proposed amendment, along with justification as to why the request is reasonable and meets the intent of the Ordinance.
 - c. Written support from the Home Owners Association, Property Owners Association, Architectural Review Committee and affected property owners for the proposed amendment.
 - d. Submittal of a filing fee.

4. Adoption of the PAD: The development plan and supporting statements and documents submitted with the application for a Planned Area Development shall be approved and adopted by the Council and included in the ordinance establishing the PAD Overlay. All development within the PAD Overlay shall comply with the sketch plans as approved and adopted by the Council.

a. Action by the Commission. Upon completing its public hearing on the PAD application and sketch plan, the Commission shall transmit its recommendation to the Council.

(1) The recommendation of the Commission shall include the reasons for approval or disapproval of the application, and if recommended for approval shall give specific evidence and facts showing that the application meets with the following:

a. That the development at the location proposed is generally consistent with the goals, objectives, densities and policies of the General Plan or specific plan for the area.

b. That the development at the location proposed and the development standards to be followed or maintained will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

c. That the development will promote or preserve environmental quality and conserve energy usage and energy resources, including the protection of adequate sunlight for use of solar energy systems.

(2) The recommendations of the Commission may include reasonable additional conditions and/or modifications to established property development standards as deemed necessary to promote the purpose of this Overlay and this Code.

b. Action by the Town Council. Following conclusion of its public hearing, the Council may approve the PAD and sketch plan as recommended by the Commission or in a modified form, stipulating those conditions it deems necessary to carry out the purpose of this Overlay and this Code. If the PAD and sketch plan is approved, it shall be incorporated as part of the Zoning Map. The Council shall include the reasons for approval or disapproval of the application and shall give specific evidence and facts showing that the application meets with the following:

(1) That the development at the location proposed is generally consistent with the goals, objectives, densities and policies of the General Plan or specific plan for the area.

(2) That the development at the location proposed and the development standards to be followed or maintained will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

(3) That the development will promote or preserve environmental quality and conserve energy usage and energy resources, including the protection of adequate sunlight for use of solar energy systems.

I. Enforceability:

1. The PAD Program shall continue to be implemented and maintained for the total acreage of the PAD Overlay, even though ownership may subsequently be transferred in whole or in part.

a. It is the responsibility of the owner to notify all prospective purchasers of all or part of the property within the Overlay of the existence of the PAD Overlay amendment and the PAD Program contained therein.

b. Conformance with the PAD shall be enforced by recordation of the appropriate deed restrictions for each parcel of property within the Overlay, prior to the issuance of building permits, for each development unit.

c. Notification and recordation as provided above shall be required in order to retain the unitary aspect of the Overlay.

2. Application for approval of the first development unit shall be made, and required infrastructure development shall have commenced, within four (4) years of the date upon which the PAD Overlay amendment was approved. Each development unit must contain open space proportional to the size of the development unit. Applications for approval of subsequent units shall be made in accordance with the development-phasing schedule contained in the PAD Program. If a written request for additional time is received from the applicant/agent within thirty (30) days of notification, providing justification why an extension may be warranted, a one (1) year extension of time may be administratively approved by the Town Manager or designee for the first extension.

If the applicant requests additional extensions of time beyond a one (1) year administratively approved extension, staff shall notice a hearing to determine the cause of the delay.

a. The hearing shall be held within sixty (60) days of the date of the written notice, and shall follow Town Council procedures for hearings.

b. The Town Council may determine good cause for such deficiency/extension of time and may, in conjunction therewith, entertain an application to amend the development-phasing schedule.

3. Failure to commence required infrastructure development within the required time period shall cause the PAD Overlay classification to become null and void, and any property rezoned in conformance with the PAD Overlay amendment and the PAD Program to revert to its former zoning classification by action of the Town Council.

4. At such time that the Town Manager or designee shall determine that the applicant is not proceeding to develop in accordance with the PAD Program, it shall notify the applicant in writing of such deficiency and shall, simultaneously, notice a hearing to determine the cause of the delay.

a. The hearing shall be held within thirty (30) days of the date of the written notice, and shall follow Town Council procedures for hearings.

b. The Town Council may determine good cause for such deficiency and may, in conjunction therewith, entertain an application to amend the development-phasing schedule.

c. The Town Council may determine that there is not good cause for such deficiency, and in such event may impose additional restrictions on the applicant to ensure future compliance with the PAD Program including, but not limited to, the filing of such periodic reports as the Council shall require to enforce this provision.

J. At such time that the Town Council shall determine that the current owner of any portion of the PAD Overlay is not in compliance with a provision of the PAD Program or the public dedication or improvement schedules no further vesting of zoning or approval of final site plan or subdivision plats shall occur for that portion. Such determination of noncompliance shall be at a public hearing. The applicant and current owner(s) shall receive written notice of hearing.

[Amendment to § 4 (Preliminary Plat) B (Required Information for Preliminary Plat) of the Town of Dewey-Humboldt Subdivision Regulations by adding the following:]

SECTION 4.B.5. PRE-APPLICATION PROCEDURES

A pre-application meeting with Community Development Department staff may be required as part of any application submittal for a subdivision. This meeting is intended to provide the appropriate information to an applicant regarding, but not limited to, location of floodplains and drainage areas, septic system size and requirements, and conformance of the site plan with Zoning Ordinance requirements. During the meeting staff will also provide advice and assistance regarding filing procedures, improvements required, and subdivision design considerations.

Concerns set forth in this pre-application meeting shall be addressed in the plat submittal. The developer should have "sketch" type drawings and documents showing the proposed street layout, topography, drainage issues, and proposed access. The purpose of the pre-application meeting is to provide preliminary identification of potential issues. It is not intended as a complete analysis. Attendance of the applicant's engineer and/or development team is strongly encouraged but not required. The applicant is required to contact a staff member to set up an appointment.

SECTION 4.B.6. SKETCH PLAN

A. The purpose of the Sketch Plan is to determine the feasibility of the proposed development and the capacity of the land to support such development.

B. To avoid unnecessary and costly revisions, the subdivider shall as specified by these Regulations submit a Sketch Plan of the proposed development after an informal discussion with Department staff. The Sketch Plan shall be circulated to and reviewed by Town and related reviewing agencies to discover development opportunities or apparent constraints prior to accepting a subdivision plat submittal.

C. A Sketch Plan submittal shall be a precursor to any plat submittal under the following circumstances:

1. Development tract adjoins different zoning classification(s) with higher intensity/density designation(s).

2. Project development is to occur in multiple phases.

3. Difficult development constraints exist such as:

a. Topography

b. Limited or difficult access

c. Limited existing or available utilities

d. Within FEMA Floodplain or encumbered by numerous washes or arroyos exhibiting unique drainage constraints

e. Sewer not available and effluent disposal opportunities are limited or constrained

4. All PADs must submit a Sketch Plan.

SECTION 4.B.7. SKETCH PLAN CONTENTS

- A. Vicinity Map
- B. Name of development and Sketch Plan
- C. Location by Section, Township and Range (G&SRB&M)
- D. Reference by dimension and bearing to section corners and quarter-section corners
- E. Boundaries of development clearly identified
- F. North arrow
- G. Scales (both graphic and equivalent inch to feet) using standard engineering intervals. Not to exceed 1" = 200', prefer 1" = 100'. Sheet size no smaller than 24" x 36"; no larger than 42" on a side.
- H. Date of preparation plus date of any amendments since original submittal
- I. Names, addresses, phone numbers and notation of relationship to development for landowners, subdivider/development agents, engineers, surveyors, land planners, landscape architects, architects, hydrologists or others responsible for design (include registration numbers)
- J. Topography by contours relating to U.S.G.S. survey datum (shown on the same map as proposed development) including benchmark used. Base information must be sufficient in order to review. Topography shall be depicted 300' beyond project boundary.
- K. Proposed land uses and densities by area as well as ownership patterns surrounding land uses and zoning within 300'
- L. Proposed vehicular, pedestrian and recreational stock traffic circulation plan (access, continuity, traffic flow capacities, secondary emergency access threshold, etc.)
Traffic Concept Plan to include:
 - 1. Overall area map where necessary showing existing and proposed roads and their classification (arterial, collector, residential street) within 1/2 mile of project boundaries. Scale not to exceed 1" = 2,000'.
 - 2. Identify legal primary and secondary access opportunities, as well as existing or proposed street right-of-way widths.
 - 3. In narrative form, identify general traffic impacts to adjacent property and existing roads, as well as high traffic generation points on site.
 - 4. Identify existing or proposed trail networks and open space features affected by or intended to be implemented as part of future subdivision design. (NOTE: The Plan may be graphic and/or narrative.)
- M. Drainage Concept Plan Illustrate and discuss in narrative form the proposed methods of handling storm drainage and floodplains that affect property:
 - 1. Depict general pre- and post-development drainage patterns and flow direction(s).
 - 2. Identify potential detention facilities, where necessary.

- N. Identify in chart or note form on the Sketch Plan Map the following:
1. Total acreage, acreage for each use and each phase
 2. Number units/lots for each type of use and phase
 3. Average area per lot/unit proposed
 4. Percent open space, if any, exclusive of rights-of-way, roadways, building envelopes, and parking areas
 5. Water source (if new source indicate potential well field and storage tank)
 6. Method of refuse removal
 7. Sewer service provider and type, if available
 8. Fire District
 9. Proposed utilities available and provider
 10. Identify unique site conditions, i.e., rock outcroppings, major drainage features, etc.

O. Requested Variances and Waivers or known deviations from design standards (NOTE: Unique site conditions or apparent development constraints may necessitate submittal of additional information as required.)

P. If requested by the Town Manager or designee, a map (at a minimum scale of 1":10' for that portion of the lot within 30 feet of the building or structure) identifying the following, as applicable:

1. all trees over 2" outside bark diameter at 4.5 feet above the ground on the uphill side of the tree, indicating canopy size and species, and indicating those trees to be removed; and
2. all natural topographic features such as watercourses, rock outcrops, native vegetation and trees, and
3. a map identifying areas of existing manmade scarring and, if proposed, a restoration program.

SECTION 4.B.8. ADDITIONAL REQUIREMENTS

Eighteen (18) presentation copies and one (1) copy in digital form of the Sketch Plan shall be submitted to the Department. Within fifteen (15) working days from submittal, the Sketch Plan shall be evaluated and discussed in a formal meeting between the applicant(s), reviewing agency representatives and Department staff. Upon receipt of reviewing agency comments, the Town Manager or designee shall compile agency comments and respond to the applicant or agent as the proposed project relates to the following:

- A. General Plan or Specific Area (Community) Plan(s)
- B. Suitability of the site for development, proposed/existing and potential development opportunities and constraints
- C. The improvements, design and dedication required by Town Improvement Standards

D. Zoning Requirements

E. Drainage Requirements: A Phase I drainage report in accordance with the requirements of the Town Drainage Criteria shall be submitted as set forth herein in conjunction with a Sketch Plan. The purpose of a Phase I Drainage Report is to review at a conceptual level the feasibility and design characteristics of the proposed subdivision. The drainage study shall identify off-site contributing drainage areas on a 7-1/2' U.S.G.S. Quad Map; analyze existing hydrology conditions and approximate developed hydrologic conditions to make decisions relative to detention; illustrate location of proposed drainage facilities to convey run-off through the site (no sizing of facilities needed); and provide text generally describing the drainage aspects of the site, methods for handling run-off, hydrological methods, and floodplains that affect the property.

F. Citizen Participation: Every applicant who is proposing a subdivision of 60 acres or greater shall include a Citizen Participation Plan. The Plan will not be required to commence until 30 days before a legally-required Public Hearing, if any.

SECTION 4.B.9. APPROVAL OR DENIAL OF SKETCH PLANS SUBMITTED WITH AN APPLICATION FOR A PLANNED AREA DEVELOPMENT

On or before the twentieth day after the Sketch Plan submittal date, the Town Manager or designee shall determine whether or not the Sketch Plan meets the purposes of these Regulations and related Town Ordinances and design specifications and shall, where the Town Manager or designee deems it necessary, make specific recommendations to be incorporated by the applicant into a revised Sketch Plan or appropriate subdivision plat submittal. No response from reviewing agencies within the prescribed review period shall be construed as having no objection to the continued processing of the application.

SECTION 4.B.10. DENIAL OF SKETCH PLAN

If the Town Manager or designee determines that the Sketch Plan submittal is not consistent with the General Plan or Specific Area (Community) Plan(s) and/or determines that the proposed development does not meet Town improvement/design specifications, the Town Manager or designee may deny the Sketch Plan application or request modifications to be incorporated into a revised Sketch Plan prior to authorizing an appropriate subdivision plat submittal.

SECTION 4.B.11. APPEAL

If the project developer objects to a decision by the Town Manager or designee to deny a Sketch Plan or any administrative review process or recommended modification to same, the Town Manager or designee's decision may be appealed to the Commission. Upon receipt of a written statement of objection, the matter shall be placed on the agenda for the next available Commission meeting. If the developer objects to the recommendations of the Commission, the Commission's recommendation may be appealed to the Council.