

ARTICLE 30.00**COMMERCIAL PLANNED
DEVELOPMENT (CPD) OPTION****Section 30.01 -- INTENT**

- (a) The intent of the Commercial Planned Development (CPD) Option is to permit, with City approval, private or public development which is substantially in accord with the goals and objectives of the Downtown Urban Design Plan which was adopted by the Planning Commission in August 1991 and may be amended from time-to-time, and the Master Plan for the City of Walled Lake, which was adopted by the Planning Commission on April 10, 1990, and which may be amended from time-to-time.
- (b) The development permitted under this Article 30.00 shall be considered as an optional means of development. The availability of the option imposes no obligation on the City to encourage or foster its use. The decision to approve its use shall be at the sole discretion of the City. Consequently, in this article, the development opportunities made available under this Article may be referred to as the CPD option.
- (c) The CPD Option is intended to permit regulatory flexibility to achieve development that is in accord with the City's Downtown Urban Design Plan and Master Plan; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage the creation of useful open space particularly suited to the proposed development and parcel on which it is located; and to provide appropriate employment, services and shopping opportunities to satisfy the needs of residents of the City of Walled Lake.
- (d) It is further intended that the development in the CPD Option be laid out so that proposed uses, buildings, and site improvements relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- (e) The CPD Option is further intended to permit reasonable development or use of parcels of land that were subdivided and/or developed prior to adoption of the current ordinance, or amendment thereto, and which would otherwise be restricted from development or use because of existing or resulting nonconformities.

Section 30.02 -- DEFINITIONS

For the purposes of this article, the following definitions shall apply:

- (a) **Commercial Planned Development.** The term "Commercial Planned Development" means a specific parcel of land or several contiguous parcels of land, which has been, is being, or will be developed in accordance with a site plan approved by City Council, following a recommendation from the Planning Commission, where the site plan meets the requirements of this Article, proposing permitted land uses, density patterns, a fixed system of streets (where necessary), provisions for public utilities, drainage and other essential services and similar features necessary or incidental to development.
- (b) **Underlying Zoning. (amended 3-7-02)** The term "Underlying Zoning" means the zoning classification applicable to any portion of land that is proposed to be developed in accordance with the Commercial Planned Development regulations.

Section 30.03 -- QUALIFICATION CRITERIA

In order to qualify for the Commercial Planned Development option, it must be demonstrated that all of the following criteria will be met:

- (a) The CPD option may be used only if a portion of the site is included in the Downtown Overlay District or if the site is located on an arterial road as designated in the City’s Master Plan.
- (b) The use of the CPD option shall not be for the purpose of avoiding applicable zoning requirements of the underlying zoning district.
- (c) The CPD option shall not be used in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards without the need for variances.
- (d) The CPD option may be used only when the proposed land use will not add public service and facility loads beyond those contemplated in the Master Plan or other applicable plans or policies of the City unless the applicant can demonstrate to the sole satisfaction of the City Council that such added loads will be accommodated or mitigated by the proponent as part of the CPD or by some other means deemed acceptable to the City Council.
- (e) Use of the CPD option shall establish land use patterns which are compatible with and protect existing or planned uses.
- (f) Use of the CPD option shall promote the goals and objectives of the Downtown Urban Design Plan and Master Plan.
- (g) The CPD option shall not be allowed solely as a means of increasing the density or intensity of development.
- (h) The CPD option shall result in a higher quality of development than could be achieved under conventional zoning.
- (i) Each proposal that uses the CPD option shall also meet one or more of the following objectives:
 - 1. To guarantee the provision of a public improvement which could not otherwise be required that would further the public health, safety or welfare, protect existing or future uses from the impact of a proposed use, or alleviate an existing or potential problem relating to public facilities.
 - 2. To improve the appearance of the City through quality building design and site development, the provision of trees and landscaping consistent with or beyond minimum requirements; the preservation of unique and/or historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.
 - 3. To bring about re-use and/or redevelopment of sites where an orderly change of use is determined to be desirable, especially where re-use or redevelopment is unreasonably restricted because of existing nonconformities or the constraints of conventional zoning standards.

Section 30.04 -- PERMITTED USES (amended 3-7-02)

- (a) Only uses that are listed as Principal Permitted Uses or Permitted Uses after Special Approval in any of the underlying zoning district(s) shall be permitted in a CPD development. However, expansion of or renovation to a building containing a use that is not listed as a Principal Permitted Use or a Permitted Use after Special Approval may be permitted by the City Council upon making the determination that:

1. The use has operated and will continue to operate in a manner that is compatible with surrounding and nearby land uses;
 2. The proposed expansion or renovation will not impair the efforts of the City, property and business owners and residents to further the goals and objectives of the Downtown Urban Design Plan and Master Plan; and
 3. The proposed expansion or renovation will have a recognized and substantial beneficial impact as a result of improved building design, site improvements that are consistent with urban design guidelines set forth in the Downtown Urban Design Plan, improved traffic and transportation patterns or other benefits.
- (b) The determination whether a specific use should be permitted shall be subject to review and approval of a site plan, pursuant to the review procedures in Section 30.06.

Section 30.05 -- HEIGHT, BULK, DENSITY AND AREA STANDARDS

A CPD proposal shall comply with the height, bulk, density, and setback standards of the underlying zoning district except as specifically modified and noted on the CPD site plan. Uses listed as Special Approval uses shall be subject to applicable height, bulk, density, area and use standards in Section 21.29 of the Zoning Ordinance, unless such standards are modified and noted on the CPD site plan.

The City Council may approve a modification or waiver of one or more standards of the underlying district or standards for Special Approval uses, after reviewing the recommendation of the Planning Commission, upon making the determination that any such modification or waiver would be consistent with the land use goals and objectives of the City and the intent of this Article, and upon making the determination that the modification or waiver would be appropriate because of the particular design and orientation of buildings and uses. Action by the City Council on a CPD site plan, including modification or waiver that is approved as part of approval of a CPD site plan, shall not require further consideration or action by the Zoning Board of Appeals; futhermore, action by the City Council on a CPD site plan may not be appealed to the Zoning Board of Appeals.

Section 30.06 -- REVIEW PROCEDURES

(a) **Request for Qualification.**

1. Any person who owns land in the Downtown Overlay District, or the owner's designated agent, may make application for consideration of a Commercial Planned Development proposal. Such application shall be made by submitting a request for a determination whether the proposal qualifies for the CPD option.
2. A request shall be submitted to the City Council and shall include the following:
 - a. A written statement explaining in detail the proposed use, building and site improvements, phasing plan, and resulting floor area and parking.
 - b. Substantiation that all conditions for qualification set forth in Section 30.03 are or will be met.
 - c. A schematic land use plan containing enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity.

3. Upon receipt of the Request for Qualifications, the City Council may undertake such investigation, study and/or deliberation into the merits of the proposal as it deems appropriate. In conducting such investigation, the City Council may seek information, analysis and advice from the Planning Commission, City staff, City Planner, City Attorney, or others as necessary.
4. Upon completing its investigation, the City Council shall approve, approve with conditions, or deny the request for qualification. A determination that a proposal qualifies for review under the CPD district standards shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the City Council may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final CPD site plan. A preliminary determination does not assure final approval of a Commercial Planned Development proposal, but is intended to provide an initial indication as to whether or not an applicant should proceed to prepare a CPD site plan upon which a final determination would be based. If the City Council denies the Request for Qualification, the applicant may pursue development or use of the site under conventional zoning standards.

(b) **Request for Final Approval**

An applicant who has been granted qualification by City Council may apply for final approval under this section with submittal of the following materials:

1. CPD Site Plan. An application shall be made to the Department of Planning and Development for review and recommendation by the Planning Commission. The CPD site plan shall contain all of the information required for site plans in Section 21.28(f) and any additional information requested by the City Council upon granting approval of the request for qualification.
2. Planning Commission Review.
 - a. If the Director of Planning and Development determines that the CPD site plan is substantially in compliance with the site plan submittal requirements and the minimum conditions for consideration imposed by the City Council, the Director shall place the site plan on the Planning Commission agenda and schedule a public hearing.
 - b. Notice of the public hearing shall be published in a newspaper which circulates in the City, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located on the zoning district. Such notice shall be given not less than fifteen (15) days before the public hearing scheduled the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. Such notification shall be made in accordance with the provisions of Section 103 of Michigan Public Act 110 of 2006, as amended. Accordingly, the notice shall:
 1. Describe the nature of the planned unit development project requested.
 2. Indicate the property which is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

3. State when and where the planned unit development project will be considered and the public hearing will be held.
 4. Indicate when and where written comments will be received concerning the request.
- c. After the public hearing, the Planning Commission shall report its findings and make its recommendations to the City Council. The Planning Commission shall review the proposed Plan and make a determination whether:
- (1) The CPD proposal satisfies the CPD qualification criteria.
 - (2) The CPD proposal promotes the land use goals and objectives of the City.
 - (3) The CPD proposal meets all applicable provisions of this Article and Ordinance. Insofar as any provisions of this Article are in conflict with the provisions of any other section of this Ordinance, the provisions of this Article shall apply to the lands within an approved CPD.
3. Final Approval of Commercial Planned Development.
- a. Upon receipt of the report and recommendation of the Planning Commission, the City Council shall review all findings. If the City Council determines that approval would be appropriate, it shall instruct the City Attorney to prepare a contract setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase.

After approval by resolution of the City Council, the contract shall be executed by the City and the applicant and recorded in the County records. Approval shall be granted only upon the City Council determining that all qualification requirements, conditions of approval, and provisions of this and other City Ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.
 - b. Approval of a CPD site plan shall be effective upon recording the contract and filing proof of recording with the City Clerk.
 - c. Once an area has been included, within the boundaries of an approved CPD, no development may take place in the CPD except in accordance with the City Council-approved CPD site plan.
 - d. Prior to any development within the area involved, an approved CPD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the City and recording in the County records an affidavit so stating. The approval of the plan shall terminate upon such recording.
 - e. No approved plan shall be terminated after development commences except with the approval of the City Council and of all parties having an equity interest in the land.
 - f. Site plan approval granted pursuant to approval of a CPD Plan shall remain valid for a period of two (2) years from the date of approval. If required city permits have not been issued and work lawfully commenced within this two (2) year period, the City Council may terminate and revoke the CPD plan approval and contract by written notice to the owner and recording an affidavit in the county records.

- g. Approval of a CPD site plan under this Article shall be considered an optional method of development and improvement of property subject to the mutual agreement of the City and the applicant.

(c) **Amendments to CPD Site Plan.**

Proposed amendments or changes to an approved CPD site plan shall be submitted to the Director of Planning and Development. If the Director determines that the proposed modification is minor based on the criteria in Section 21.28, then the Director may approve or deny the proposed amendment. If the Director denies the proposed modification or determines the proposed modification is not minor, and if the applicant then requests further consideration, then the site plan shall be reviewed by the Planning Commission and City Council in accordance with the provisions and procedures of this Section as they relate to final approval of the Commercial Planned Development.

(d) **Fees.**

The applicant shall be responsible for all costs associated with processing, amending, or terminating a CPD site plan, including but not necessarily limited to the costs of review, publication notices, and recording. Fees for review of CPD Plans under this Article shall be established by resolution of the City Council.