Planned Unit Developments – Real World Experiences

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Introduction
The concept of planned unit developments has been around now for quite some time. Most cities and counties in Washington have adopted planned unit development ordinances. Much has been written over the years about the technical and legal nature of PUD’s. This article, however, takes a look at how some of these ordinances are working in the real world. What are the major issues and challenges? Are PUD ordinances even necessary?

What is a Planned Unit Development (PUD)?
A PUD is both a type of development and a regulatory process. Individual definitions can vary greatly depending on the community or jurisdiction and its goals. The purpose of a PUD is generally to allow greater flexibility in the configuration of buildings and/or uses on a site than is allowed in standard zoning ordinances. A major goal of PUD’s is often to encourage unified plans that provide a more complete and integrated package (hopefully including special amenities) over piecemeal development. A typical PUD would include a cluster of small lots in conjunction with a common usable open space with some recreational amenities and a protected natural area functioning as permanent open space. This arrangement can benefit both sides: A developer gets extra flexibility in configuring lots and buildings and perhaps a density bonus and/or reduced infrastructure cost, while the city/county gets permanent open space and/or other desired amenities.

The most common PUD applications occur in suburban cities and rural county areas. Flexibility is the key principle for applications in both types of areas. The protection of critical areas is a common theme of many city PUD’s. The protection of larger tracts of open space is a common theme for rural PUD’s. Flexibility in clustering small lots in rural areas, however, is more challenging in Washington State under Growth Management Act provisions. Planned unit developments can range in size from large master planned communities (Snoqualmie Ridge, Issaquah Highlands, and Redmond Ridge are the three largest King County examples) to 1-2 acre projects containing a handful of lots. Many of the master planned residential developments are classified as Planned Residential Developments (PRD), a variant of PUD.

Three Case Studies
This article is based on an examination of three case studies, including Bonner County (ID), Ellensburg (WA), and Bayview Ridge Subarea (Skagit County, WA).

Bonner County, Idaho
Bonner County is a large rural county in northern Idaho, stretching from the Washington to Montana borders. I served as an assistant planner in the mid 1990’s processing a broad range of development permits, including PUDs. Most PUD’s were recreational-based properties near lakes, rivers, or Schweitzer Mountain Ski Area. Nearly all sites included wetlands, steep slopes, or other sensitive lands. Some notable provisions of the ordinance in effect at the time included:
PUDs functioned as a conditional use permit submitted in conjunction (or prior to) with a subdivision application (preliminary plat).

Large scale PUDs (more than 5 acres) had extra flexibility to add commercial uses provided they were designed to support “primarily” the needs of the residents of the development. Flexibility with the types of housing units were allowed in all PUDs provided the project met the density provisions and other applicable standards.

- A minimum common open space requirement (10%).
- Up to 25% density bonus based on an increase in the amount of common open space provided.
- Projects required a pre-application meeting, simple environmental analysis and land capability report, a homeowners association, and covenants/articles of incorporation to be recorded with the final plat (as an enforcement tool).

While I processed a handful of PUD’s during my two years with the county, the great majority of new lots were created through the standard subdivision process. Most of these were simple land divisions – for example, dividing a 20 acre parcel into four-five acre lots, surveyed into perfect rectangles, regardless of the site’s features.

Several years later, working as a consultant with MAKERS, I had the chance to help the county update their entire land use code – to comprehensively examine objectives, issues, and opportunities. In the PUD/subdivision area, changes were sought that would promote clustered development, greater design flexibility, and environmental protections. While the code update only resulted in some relatively minor PUD ordinance updates, the most notable change was to allow lot clustering as part of the regular subdivision process (as part of a “Conservation Subdivision”). The resulting “Conservation Subdivision” provision allowed for “meaningful” density bonuses while it enhanced the standards for common open space and offered density bonuses for other public amenities (most notably public access and trails). The density bonuses were increased over existing PUD provisions to provide a greater incentive for their use. The open space in the conservation subdivision has to be valued as wildlife habitat, wetlands, timberland, active recreation, and/or include other unique vegetative qualities.
It’s noteworthy that had Bonner County been under GMA jurisdiction, the ordinance would have run up against GMA’s laws governing urban and rural development. The conservation subdivision option allows urban-sized lots in rural areas, provided projects met the overall density provisions – in addition to other applicable requirements. The issue (urban lots in rural areas) was a concern amongst participants, but it was determined that the potential benefits of clustered development outweighed the drawbacks in this case – particularly after factoring in other standards and approval criteria. This included compatibility issues, adequate infrastructure, and access to services.

**Project Status:** Economic conditions in the region have substantially decreased the number and types of development applications since the updated code was adopted (2008). Planning Director Clare Marley noted that only three PUD applications have been processed (mostly in more urbanized areas) and the conservation subdivision provision hasn’t been used yet (though several developers and property owners have expressed interest).
**City of Ellensburg, WA**

Ellensburg is a small city of 20,000 in central Washington featuring a historic downtown and Central Washington University, surrounded by farms at the foothills of the Cascades. My firm (MAKERS) was hired in 2010 (along with O'Brien & Company, Transpo Group, and Cascadia Green Building Council) to update the city’s land use code following the update of its comprehensive plan.

During the early visioning/analysis stage, we learned that the city’s extensive PUD ordinance (adopted in 2001) had only been used once. Planning Director Mike Smith noted that the ordinance was perceived as too complicated and the incentives too small to encourage its use. Developers were utilizing the standard subdivision process in piecemeal fashion. Most of the newer subdivisions were simple, monotonous, and often poorly coordinated. The community sought code changes that would promote a more compact and connected development pattern that promoted walking and bicycling, and enhanced the character of Ellensburg.

After a targeted outreach process with public officials and stakeholders, we ultimately decided to eliminate the PUD provision altogether. The solution was two-fold: Integrate design flexibility (clustering and density bonuses) into the subdivision process and update subdivision and street design standards to meet community objectives. Perhaps the biggest change was to eliminate the lot size minimum requirement in favor of the density averaging concept. Other notable changes:

- Allow a small increase in overall density in most districts combined with new design standards (house/garage frontage standards, streetscape design, better road and trail connectivity, and fence location and design standards).
- Adopt a density bonus system for key suburban zones – with generous bonuses (some up to 50% increase and beyond) for desired design and/or amenity features (trails, extra parkland, mix of housing types, energy efficient design, etc.).
- Allow for flexible lot design (zero lot line, courtyard access, etc.).
- Illustrate desirable subdivision layout examples.

The biggest challenge with these changes was to craft the density bonus system in a way that met community policy objectives AND was simple enough (for a small city) to administer. In this case, we employed prescriptive, measurable benchmarks wherever practical – to provide a level of certainty and predictability. Measures eligible for density bonuses included a mixture of housing types (measured by percentages), integrating trails (measured by linear foot), and park/open space (measured by area). Another key bonus provision emphasized increased energy efficiency. Project teammate Katie Spataro (Cascadia Green Building Council) recommended specific environmental certification levels tied to a tiered system of density bonus levels. This requires third party verification and helps to simplify enforcement for staff. For example, proof of ongoing certification is required during construction and project certification must be completed prior to final occupancy. The most challenging density bonus provisions to craft were the affordable housing, historic preservation, and transfer of development rights (TDR) provisions. All were high priorities among project stakeholders and public officials and each includes specific benchmarks to help ensure compliance. Each, however, include their own unique implementation challenges. The TDR provision is subject to the city adopting a TDR program.
As part of the code update, we took an undeveloped site and illustrated how it could be developed consistent with the code and integrating key density bonus provisions. The case study was particularly useful during the process as it resulted in reduced density bonus percentages for most of the features.

Project Status: The Ellensburg provisions, in the works since mid 2010, are now being refined and are scheduled for Planning Commission and City Council review during Winter 2013.
**Bayview Ridge Urban Growth Area (Skagit County, WA)**

MAKERS was hired to work with the Port of Skagit County, property owners, and Skagit County to write a PUD ordinance that would implement a recently adopted subarea plan. The project site is within an “island” urban growth area surrounding the Skagit County Airport, northwest of Mount Vernon and west of Burlington, in northwest Washington. The Urban Growth Area (UGA) includes industrial port lands surrounding the airport with large vacant tracts, scattered residential development, and subdivisions surrounding a golf course. The UGA sits on a bluff and is separated from nearby cities (Mount Vernon and Burlington) by farmland and floodplain.

The focus of the work was large tracts of vacant land owned primarily by a single property owner. Most of the land was designated for residential development between 4-6 dwelling units per acre, with a small village center (retail/mixed-use), a school (hopefully), and some additional light industrial land closer to the airport.

![Map of Bayview Ridge Urban Growth Area](image)

*The focus area of the ordinance is the land highlighted in green and other color coded larger parcels to the east of the airport.*

Project participants assumed that a PUD would be the regulatory mechanism needed to implement the plan and integrate with the county’s land use code. Since Skagit County did not have an existing PUD ordinance, a decision was needed on whether such an ordinance would or could apply countywide, be area-specific, or some combination of both. In developing a proper solution, it was necessary to examine all the components and issues. The chart below identifies some of the key issues together with the solution that the committee came up with.
Table 1: Key Issues and Solutions for Bayview Ridge

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<th>Issue</th>
<th>Proposed Solution</th>
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<td>Permit processing</td>
<td>Require a PUD for new land divisions in the planning area. PUD must include a conceptual development plan illustrating circulation, land use(s), design features, and planned phases. Applicants may submit a PUD prior to subdivision or binding site plan or one “integrated” application. Thus a PUD could cover a large site with multiple phases – including one or more subdivisions. Like all subdivision ordinances, the PUD ordinance includes provisions involving the alteration of PUDs and time limits.</td>
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<td>Community outreach and design review</td>
<td>Prospective PUD applicants must conduct a pre-submittal neighborhood meeting to present and discuss the conceptual development plan and hear issues and concerns by area residents. Otherwise, PUDs follow similar review process for subdivisions. The County may hire outside design review consultant to assist with the projects’ review (subject to a reimbursement agreement made between the County and the applicant).</td>
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<td>Zoning provisions – update per subarea plan</td>
<td>Zoning district provisions were updated to meet density and design goals. Zoning provisions allow lot size variety (density averaging).</td>
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<td>Community design</td>
<td>Adopt community design standards for planning area addressing street design, road and trail connectivity, school and park integration, and block frontage standards.</td>
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<tr>
<td>Project design</td>
<td>Adopt project design standards for new development in planning area. This includes standards for permitted housing types, site and building design standards, and landscaping and fencing standards.</td>
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While the PUD provision was a major discussion topic of the group and ultimately included in the proposed code provisions for Bayview Ridge, it was ultimately just one component of the proposed “Bayview Ridge Development Standards.” The proposed new chapter encompasses a purpose statement, application/review process, zoning provisions, and design standards. The most important PUD component used in the draft ordinance is the “conceptual development plan.” While development standards were crafted to ensure that new subdivisions and binding site plans met the road and trail connectivity provisions and other key community design provisions, the county advocated for a conceptual development plan – as a means to ensure that property owners/applicants are looking at the big picture. This required applicants (of the key larger parcels) to illustrate how contiguously-owned parcels would be developed over a number of phases (see example below). The level of detail could vary depending on the size of the property and the number of phases. For example, a shadow plat could be shown for second phases, while more conceptual “bubble” maps could be used in longer term phases. These conceptual plans would be a useful tool for all participants, particularly the county and interested citizens.

**Project Status:** The Bayview Ridge provisions, in the works since late 2011, are scheduled for Planning Commission and City Council review during Winter 2013.
Example of a conceptual development plan map illustrating multiple anticipated phases. The concept includes plans for streets and trails, parks and open space corridors, and land uses/housing types. Such plans would be accompanied by sketches and photos of development examples, and numbers and/or parameters for the types and amount of development. A detailed subdivision application for Phase 1 could be submitted simultaneous with the PUD application, or within a specified time frame after PUD approval.

Other Case Studies

As part of the research for this article, I sought a variety of case studies and resources that might be instructive. They include a full range of development contexts from an urban city (Bellevue, WA) to a small resort town in central Washington (Chelan, WA). I wanted to include a rapidly growing suburban community (Marysville, WA) as well as a large county (Whatcom County, WA). I also spoke with a planner and an attorney from the planning law firm Van Ness Feldman GordonDerr who have considerable experience with PUD ordinances.

Table 2 provides a comparison of the PUD ordinances of these four communities, documenting the purpose and emphasis of each, whether there are any bonuses, use flexibility, or street design flexibility, and unique provisions of each. Conclusions from each case study include:
**Bellevue (based on discussion with Matthews Jackson, Neighborhood Development Planning Manager)**

- Since Bellevue is largely built-out, there have only been six projects completed since the last PUD ordinance update in 2006. Most projects have been relatively small and all involve critical areas. While some projects have utilized density bonuses, the primary reason for doing a PUD is to get relief from strict lot size minimums in applicable zones.
- Bellevue has adopted special critical area subdivision provisions – that allow for reduced lot sizes, setbacks, lot coverage, and impervious area in exchange for larger conservation/open space areas. This provision reduces the number of projects that would otherwise use the PUD concept to achieve the desired flexibility.
- There is interest in updating the code to allow more administrative flexibility with lot sizes and housing types (cottage housing, for example) in applicable districts, perhaps without going through a PUD process. Redmond and Kirkland were cited as good code examples – both feature innovative housing demonstration projects.

**Whatcom County (based on discussion with Amy Keenan, Senior Planner)**

- Nearly all of the PUDs are in Birch Bay, an unincorporated UGA island. Most are single family developments and none have used the density bonus provision; All are impacted by critical areas – thus asking for reduced setbacks and changes to road standards.
- The county has been slow to enforce specific PUD conditions of approval.

**Marysville (based on discussion with Gloria Hirashima, Chief Administrator and Community Development Director)**

- The current (planned residential) ordinance, adopted in 2006, has been used three times, and only once since 2008 (economic slowdown). The ordinance offers flexibility in housing types (such as townhouses), which has been the primary draw for each use.
- In one example, owners were able to reconfigure a county-approved subdivision to integrate multiple housing types.
- The subdivision ordinance allows considerable flexibility in design, so it often reduces the need or desire to do a PRD.
- City should revisit density bonus provisions (increase density bonus percentages) to better incentivize high quality design and community amenity features.

**Chelan (based on discussion with Craig Gildroy, Planning Director)**

- While “innovative” provisions in the ordinance are good, the lack of parameters and design criteria make the ordinance difficult to administer.
- Most applicants appear to use the PUD process to circumvent code, but the city is not getting innovative development and desirable amenities in large part due to the lack of “teeth” in the code.
Conclusions/Lessons Learned

While there are a great number of conclusions and lessons learned from analysis of these case studies, below are three primary conclusions:

- **PUD’s can be a good tool** for jurisdictions, particularly where the land use code doesn’t offer a lot of flexibility. For communities with existing PUD ordinances, it’s important to continually reassess the ordinance over time to examine what’s working, what isn’t, and draft/review possible amendments.

- **In urbanized cities, PUD ordinances may not be needed at all,** particularly if the code integrates use and design flexibility, and master planning/phasing provisions in other sections of the code.

- **Consider integrating PUD design and flexibility features into code as “by right” features and part of the design standards for new development.** The flexibility provisions could reduce regulatory burden on applicants and encourage greater use of more innovative design techniques. Cities and counties are increasingly realizing the importance of setting good minimum design standards – to ensure that the most critical features are incorporated into all developments.

Additional conclusions and lessons learned:

- **Identify primary goals and objectives** when examining an existing PUD ordinance or creating new ordinances. Examine the range of regulatory and other options to help meet those goals and objectives. A new or revised PUD ordinance may be one of those tools that help to meet those objectives. Maybe a combination of flexible zoning, design standards, and master planning provisions will be sufficient to meet those goals.

- **Test it.** Take possible development sites (preferably a site where an owner is interested in developing) and sketch development plans under the proposed code to see how it might work (or not work). For provisions affecting height, density, and land uses, it’s essential to factor in the local economics to make sure the ordinance can be viable.

- **Involve the development community** in PUD ordinance changes or consideration of a new ordinance. This was particularly valuable in the three case studies above, notably in the Bayview Ridge project.

- **Key PUD ordinance issues** warrant close examination:
  - Pre-application conference between the applicant and key staff is essential and should typically be a requirement.
  - Concept plans. Since PUD’s can involve projects with multiple phases, where only the near term phases are detailed and certain, the ordinance should define what information is needed to illustrate the later phases of development. Such concept plans are often referred to as sketch or “bubble” plans and typically include general circulation elements, land uses/mix, and special features.
  - Vesting. Make sure that the provisions for vesting are very clear, particularly in multi-phase developments. For example, while the concept plans mentioned above can be very useful planning and communication tools, they may not have enough detailed information to warrant vested rights in terms of density or other key features.
  - Phasing and time limits. In both Washington State case studies discussed above, the code ties the time limit for the initial phase to State requirements for final plats (RCW 58.17.170). For subsequent phases, the code references time limits set forth by RCW 58.17.140 or “other”
approved phasing plan for the development. How are infrastructure and amenities phased in? Bayview’s PUD ordinance requires implementation on a proportional basis, as reflected in Skagit County’s concurrency ordinance (completing infrastructure and amenities on a basis roughly proportional to percentage of the completed development, where possible).

- Clear conditions of approval need to be recorded with the approved development plan – so that the applicant and staff understand the rules as time goes by. Good record-keeping by staff over time will be immensely helpful as well.
- Plan amendments. Multi-phased development projects change more often than not, and PUD ordinances need to identify what the procedures and standards are for any amendments.

Resources


PSRC web page: Tool: Planned Unit Development: http://psrc.org/growth/hip/alltools/pud/

MRSC PUD page: http://www.mrsc.org/subjects/planning/pud.aspx


Article titled “Planned Unit Developments” by attorney Mary McMaster: http://www.planningreports.com/wfiles/w490.html

Article titled “Planned Unit Developments” by Michael Murphy, Senior Research Associate and Joseph Stinson, Senior Research Associate
