



**A Report to the
Austin City Council**

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Special Request Report on Planned Unit Development (PUD) Application Process

June 2016



REPORT SUMMARY

PUD zoning is intended for large developments and allows flexibility from traditional zoning rules in exchange for development that provides additional benefits to residents. Using criteria established in City Code, City staff and applicable commissions review the PUD applicant's development assessment and zoning application and provide feedback to the applicant until both City staff and the applicant are satisfied with the terms of the zoning application. City Council ultimately determines whether the PUD zoning is appropriate.

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PROJECT TYPE

Special request projects conducted by the Office of the City Auditor are considered non-audit projects under Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3).

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Report Highlights

Why We Did This Report

This memo responds to a request from Council Member Leslie Pool regarding the process used by City staff to review Planned Unit Development (PUD) applications and determine whether to recommend the PUD as a superior (Tier Two) development.

What We Did

To complete this special request, we:

- interviewed key employees of Planning and Zoning Department with responsibilities over the PUD application review;
- reviewed relevant ordinances and policies; and
- reviewed documentation maintained by City staff in determining the Tier Two eligibility.



For more information on this or any of our reports, email oca_auditor@austintexas.gov

SPECIAL REQUEST REPORT ON PLANNED UNIT DEVELOPMENT APPLICATION PROCESS

BACKGROUND

The City of Austin's Planning and Zoning (PAZ) Department provides zoning services to Austin residents. PAZ is in charge of the zoning land process within the Austin City's full and limited purpose annexation boundaries. The zoning process is outlined by the City's Land Development Code and is intended to be a consistent regulatory framework for land use across a city.

A Planned Development Unit (PUD) is a type of zoning that is generally intended for developments over 10 acres and for developers requesting deviations from the existing zoning regulations, in exchange for *superior* development that provides additional benefit to affected residents and businesses. For example, this could take the form of more affordable housing, more parkland, more space for small businesses, or additional amenities.

OBJECTIVE AND SCOPE

Our objective was to outline the process used to review PUD applications. The scope of this review included current processes based on recent examples.

WHAT WE LEARNED

Per City Code, City Council is the authority that determines whether PUD zoning is appropriate regardless of whether the proposed development meets the standards prescribed for PUDs. The Code outlines three criteria levels for determining eligibility of the PUD applicants: Tier One, Tier Two, and Development Bonuses or Tier Three. Tier Three is used rarely and was not part of our analysis.

PAZ reviews the development assessment and the zoning application submitted by a PUD applicant, in collaboration with other City departments and applicable commissions. Departments review and provide feedback to the applicant until both City staff and the applicant are satisfied with the terms of the application.

In our review, we found that staff rely on the steps and criteria laid out in City Code and do not have detailed procedures or measures to evaluate proposed PUDs. While we observed that recent applications followed the steps and criteria, we identified variations in evaluation on a case-by-case basis.

BACKGROUND

The City of Austin’s Planning and Zoning (PAZ) Department provides zoning services to Austin residents. PAZ is the lead department that administers zoning ordinances for land within the Austin city boundaries. The zoning process is described by the City’s Land Development Code and is intended to be a consistent regulatory framework for land use across a city.

In some cases, developers seek flexibility from the standard zoning rules, or base zoning. For example, if they want to deviate from the base zoning regulations and build taller buildings than normally allowed, or increase density, a PUD may be used. A PUD is a type of zoning that applicants with developments over 10 acres requesting deviations from existing zoning regulations in exchange for *superior* development that provides additional benefits to affected residents and businesses. For example, this could include more affordable housing, more parkland, more space for small businesses, or additional amenities. In cases where properties are unzoned, additional discussions take place to determine the base zoning.

PUD

- is a type of zoning district intended for large developments
- allows flexibility from the traditional zoning rules
- should result in superior development

PAZ, as part of its zoning responsibilities, reviews the development assessment and the zoning application submitted by the PUD applicant, in collaboration with other City departments and applicable commissions (as pictured to the side).



OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to respond to a request from Council Member Leslie Pool regarding the process used by City staff to review PUD applications to determine whether to recommend the PUD as a superior (Tier Two) development. This special request project is designed to provide information to answer specific questions, but does not include drawing conclusions or making recommendations. The scope of this review included current processes based on the most recent PUD cases completed.

To complete this special request, we:

- interviewed key employees of the PAZ Department with responsibilities over PUD application review;
- reviewed relevant ordinances and policies; and
- reviewed a sample of documentation maintained by City staff for two PUD applications in determining Tier Two eligibility.

WHAT WE LEARNED

In June 2008, City Council amended the City Code to lay out procedures and requirements for PUDs. Per City Code, Council is the authority to determine whether PUD zoning is appropriate, regardless whether the proposed development meets the standards prescribed for PUDs or not. The Code outlines three tiers for determining eligibility of the PUD applicants: Tier One, Tier Two, and Development Bonuses or Tier Three. PAZ staff stated that the majority of PUDs met the standards for Tier One and Tier Two. Tier Three is mainly used for municipal unit developments (MUDs) and is infrequent.

Tier One requirements, or minimum requirements, are mandatory. All PUD applicants need to achieve Tier One requirements to be considered, or “to get in the door.” The requirements include: meeting the objectives of the City Code, being consistent with applicable neighborhood plans, and providing for appropriate transportation.

Tier Two includes a list of criteria for determining the extent to which the proposed development is *superior* to the standard development. The Tier Two requirements include stronger water quality controls, use of native trees, art in public places, additional community amenities, multi-modal transportation features, and preservation of historic structures (see insert below for the full list of superiority categories). Per City Code, the proposed PUD does not need to address all the criteria listed to achieve superiority, and the City Council may consider any other criteria Council deems appropriate. This report describes the process used by City staff to determine whether the PUD meets the criteria for superior development (Tier Two) and present the results to City Council for their decision.

Development Assessment

The PUD zoning process begins with a developer filing the development assessment application and submission of documentation with PAZ that lays out the proposed characteristics of the development that they believe would make the development *superior*. PAZ, in collaboration with several City departments, reviews the development assessment. Case managers refer to City Code for the steps and documentation required. Through a combination of documented ways (City’s development case and permitting system, memos, and email) and verbal communications (phone or in-person conversations), City staff discusses the applicant’s proposal. Staff confirms that the applicant meets the Tier One criteria, evaluates the assessment against the Tier Two criteria, and compares the elements of superiority with the variance from the zoning basis that was requested. We did not identify a system, beyond the professional expertise of staff in the departments that is used for evaluation. We noted large variations from one file to another when reviewing a sampled of PUD files although the PUD files we sampled generally followed the process prescribed by Code. Staff indicated that there was an attempt in the past to develop a point system. Due to varying and evolving priorities between the elements of criteria (affordable housing versus water quality, for example), the system was not developed. Overall, evaluation of the extent of *superiority* of the development is unique for each development and is based on the professional judgment of City staff.

SUPERIORITY CRITERIA

Applicant's proposed use must be superior to the use allowed under code

- Open Space
- Environment/ Drainage
- Austin Green Builder Program
- Public Art
- Great Streets
- Community Amenities
- Transportation
- Building Design
- Parking Structure Frontage
- Affordable Housing
- Historic Preservation
- Accessibility
- Local Small Businesses

City reviews PUD assessment

After vetting the elements of superiority with the appropriate departments, PAZ creates a report containing feedback regarding the developer’s assessment. This report is used to negotiate with the applicant to try to arrive at the most favorable offer for the Austin citizens. As with the review process, we noted that the negotiation process is also judgment-based. The development assessment report is made available by PAZ to the affected City departments and is then presented at the Environmental Commission meeting. The commission reviews the report and may provide additional direction to the applicant to be incorporated in the assessment. Council is also briefed by the PAZ Director about the development assessment. This step allows Council weigh in earlier in the process regarding their priorities and community needs for the proposed PUD. Feedback received at the Council briefing is incorporated in the zoning application, which is described in the next section.

Zoning Application

The next stage of the PUD process is a formal zoning application to PAZ. Similar to the development assessment, PAZ coordinates with other City departments to review the application and ensure that previous feedback from City departments, Environmental Commission, and Council was sufficiently addressed. If City staff has serious concerns, the application requires a formal update. For minor concerns from City staff, an informal update may be accepted. PAZ issues a formal report with the feedback incorporated and works with the applicant to make needed changes until staff is satisfied with the application. This process can be lengthy and largely depends on staff’s judgment applied to a specific application.

The PUD application is presented at the Environmental Commission for review and feedback. In the formal application stage, unlike in the development assessment stage, the application and the report with staff’s recommendation go through the Planning Commission for cases within a neighborhood planning area¹ and to the Zoning and Platting Commission for cases not within a neighborhood planning area. The application may also be discussed at other applicable commissions such as Community Development Commission, Parks & Recreation Board, Waterfront Planning Advisory Board, and Water & Wastewater Commission.



The application is updated based on the Commission’s feedback and staff then include a recommendation to Council. Staff indicated that the PUD applications in the last five years have resulted in support for the PUD application from staff.

Community Members

Community members play a role in the PUD application review process. The dialogue between the developer planning a PUD and the affected community members usually starts before the development assessment is submitted to the City. In some instances, the City coordinates communication between the community members and developer by holding joint meetings. Community involvement continues throughout the entire process through letters and participation at commission and Council meetings.

Per Code, City staff has responsibility for notifying affected community members of PUD application submissions and related public meetings. In our review, we confirmed those steps were taken for the

¹ Inside a planning area includes applications within an approved, ongoing, or suspended neighborhood plan area or a municipal utility district (MUD).

projects we reviewed. From media reports and staff interviews, we noted that PUD applications can be controversial and it is common for community members to have competing interests. Frequent points of interests included traffic and affordability impacts.

Final Approval

City Council is the authority that determines whether PUD zoning is appropriate. The process includes three readings of the zoning ordinance. Dialogue with the developer related to potential zoning variances and proposed *superiority* characteristics of the development continues up to the point of final ordinance approval. The final reading determines whether the ordinance putting the PUD application in effect is approved via a Council majority vote.

