

ARTICLE 8
PLANNED UNIT DEVELOPMENTS

SECTION 8-1 PURPOSE AND INTENT

The Planned Unit Development is intended to provide for development or redevelopment that incorporates a single type or a variety of uses that are planned and developed as a unit. The PUD may also be used as a device that permits flexibility in developments which otherwise could not be developed either because of previous use, perceived environmental issues or other characteristics of the property. A PUD may consist of conventionally subdivided lots or provide for nontraditional techniques of development, which are consistent with the intent of the City's comprehensive plan and meet the spirit and the intent of the Zoning Ordinance.

The further purpose of the PUD is to permit the following:

- A. A maximum choice in the types of environment available to the public by allowing a development that would not be possible under the strict application of the provisions of the other sections or development guidelines.
- B. Preservation of common open space and recreation areas and facilities.
- C. To encourage a pattern of development that preserves natural vegetation, topographic and geologic features.
- D. A creative approach to the use of land and related physical facilities that results in better development and design and the construction of aesthetic amenities.
- E. To promote an efficient use of the land resulting in more economic networks of utilities, streets, schools, public grounds and building, and other facilities.
- F. To encourage a land use which promotes the public health, safety, comfort, morals, and welfare.
- G. Innovations in residential, commercial, and industrial development or redevelopment so that the growing demands of the population may be met by greater variety in type, design, and layout of the buildings and by the conservation and more efficient use of open space ancillary to said buildings.

SECTION 8-2 DEVELOPMENT GUIDELINES AND REQUIREMENTS

The Planned Unit Development shall be adopted as an overlay zoning district in conjunction with the underlying applicable zoning district boundaries. The PUD overlay district is intended to afford both the developer and the municipality flexibility in formulating major development proposals for the betterment of the community. Consequently, PUDs may not be strictly bound by the regulations of the particular district but may have lesser or greater requirements specific to the site and use proposed as necessary to meet the objectives of this Chapter. PUD districts may deviate from other generally applicable requirements without a variance, provided that such deviation is authorized by the ordinance approving the PUD overlay district and the deviation does not seek to increase the density of units otherwise authorized by the underlying district. The Ordinance approving the PUD and Preliminary Development Plan may, where appropriate, also amend the underlying zoning district to meet the requirements of the PUD and shall be adopted applying the criteria for a zoning changes and including the criteria established in this Article.

8-2.1 Compliance With Other Ordinances

Except as specifically provided through the development plan, planned unit developments including all structures and uses therein shall, at a minimum be built in conformity with all applicable codes and ordinances, including, but not limited to, the zoning code; the Subdivision Ordinance; the Sign Ordinance; and the adopted Building, Plumbing and Electrical Codes. For instances other than as modified by and approved in the ordinance for a final development plan, the PUD shall be governed by the regulations of the district(s) in which the planned development is located.

8-2.2 PUD District Required or authorized; When.

A PUD District shall be required for all uses so designated as a Planned Use by any District regulations and may additionally be authorized in any zoning district. The Ordinance approving the PUD district, and accompanying Preliminary Development Plan, shall be deemed a legislative act of rezoning governed by the criteria applicable to such approvals and such other factors set forth in this Article. The minimum gross area of any parcel to be developed as a PUD must be at least one (1) acre. No construction or use requiring PUD District authorization shall commence prior to approval of Final Development Plan and recording as provided in Section 8-4.8.

8-2.3 Professional Review

All plats and plans for a new PUD shall include a signed statement by a registered professional engineer that the plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act. Proposals for any PUD within any flood plain shall follow the guidelines established for the FP district.

8-2.4 Mixed Uses

PUDs may include all types of residential structures and any other uses approved by the City Council; provided, that in approving such mixed uses, the City Council may attach such conditions necessary to protect the public welfare.

8-2.5 Other Requirements; modifications; conditions

The ordinance approving the PUD overlay district may provide for modifications to application of the otherwise applicable district regulations, governing use, density, area, bulk, parking and signs, and the subdivision design standards as may be necessary or desirable to achieve the objectives of the proposed planned development, or other applicable requirements, provided these modifications are consistent with the standards and criteria contained in this article and not detrimental to or endanger the public health, safety, morals, comfort and general welfare of the community. In consideration of such modifications and in approval of a PUD District, the ordinance may also impose conditions relating thereto as may reasonable be deemed necessary to meet the criteria for approval and as otherwise may be consistent with law. (Am. Ord. 09-01, passed 04/06/09)

8-2.6 Accessory Uses

In PUDs, the City Council may allow the developer to disregard the usual restrictions on accessory uses other than the prohibition against using an accessory structure as a dwelling.

8-2.7 Location of Parking

By permission of the City Council, off-street parking and loading spaces in PUDs need not be located in accordance with generally applicable requirements, except state handicap accessible parking requirements.

8-2.8 Other Requirements

The ordinance approving the final development plan for the planned development may provide for exceptions from the district regulations, governing use, density, area, bulk, parking and signs, and the subdivision design standards as may be necessary or desirable to achieve the objectives of the proposed planned development, provided these exceptions are consistent with the standards and criteria contained in this article and not detrimental to or endanger the public health, safety, morals, comfort and general welfare of the community.

SECTION 8-3 PROCEDURAL REQUIREMENTS

Every applicant for a PUD approval shall comply with the procedural requirements of this Article. In summary form, the required procedures are as follows:

- A. Meeting with City Staff;
- B. Meeting with Planning Commission (Optional);
- C. Filing of Preliminary Development Plan with the Administrator;
- D. Public Hearing Before the Planning Commission;
- E. Recommendation by the Planning Commission to the City Council regarding the Preliminary Development Plan and Issuance/Denial of a Special Use Permit;
- F. Action by City Council on the Application for Preliminary Development Plan and Issuance/Denial of a Special Use Permit;
- G. Filing of Final Development Plan with the Administrator;
- H. Recommendation by the Planning Commission to the City Council Regarding the Final Development Plan;
- I. Provision by the Developer of Adequate Assurance for the Completion of the Required Improvements per the Preliminary Development Plan;
- J. Action by the City Council on the Final Development Plan.

8-3.1 Pre-application Conference with City Staff

Prior to the filing of an application for approval of the preliminary plan, the applicant shall submit to the City a preliminary presentation of the planned unit development. At such conference the applicant shall provide information as to the location of the proposed planned unit development, the uses, and approximate area of use categories, a list of any known exceptions to the subdivision and zoning ordinances of the City, and any other information necessary to clearly explain the planned unit development. The purpose of the pre-application and conference is to make advice and assistance available to the applicant before preparation of the preliminary plan, so that the applicant may determine:

- A. Whether the proposed planned unit development appears in general to be in compliance with the provisions of the zoning ordinance and other applicable ordinances;
- B. Whether any zoning amendment, variation or special use is required in connection with the proposed planned unit development.

C. Whether the proposed planned unit development will be in conformity with the comprehensive plan and the goals and policies of the City for development. The pre-application conference does not require formal application, fee or filing of a planned unit development plat.

8-3.2 Concept Plan Conference with Planning Commission (Optional)

Prior to the filing of an application for approval of a Planned Unit Development, the applicant may request of the Planning Commission an informal meeting to discuss the development of the project. The request for a concept plan conference with the Planning Commission shall be a part of a regularly scheduled meeting and shall be open to the public. The meeting is not mandatory. It is intended that the informal proposal submitted will be in preliminary conceptual form, and the substance and detail of the matters presented shall be largely at the discretion of the developer. The purpose of the conference shall be informal communication, information and discussion. Comments or recommendations by the Planning Commission about the concept plan shall not constitute authority to proceed with construction of any improvements, obligate the City Council or any of its appointed committees, boards, or commissions to approve any plan or prevent the applicant from further proceeding with the project. No recommendations need be forwarded to, or acted upon by the City Council.

8-3.3 Preliminary Development Plan Procedure and Requirements

Every applicant for approval of a PUD Preliminary Development Plan shall submit to the Administrator, in narrative and graphic form, the items of information listed below. The Administrator shall prepare an advisory report on every PUD Preliminary Development Plan, and transmit it together with the plan to the Planning Commission. The Preliminary Development Plan filing fee shall be \$500 plus \$5 for each lot reviewed and any and all ancillary expenses and fees. The items of information required are: (Am. Ord. 08-07, passed 3-3-08)

WRITTEN DOCUMENTS - Five copies to be submitted.

- A) Proof that the developer has acquired legal title to all land within the PUD or has executed a binding agreement with all the owners of such land giving him effective control over its development.
- B) Legal description of the total site proposed for development;
- C) Names and addresses of all owners of property within 250' of the proposed PUD;
- D) Statement of the planning objectives to be achieved by the PUD through the particular approach proposed by the application, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
- E) Development schedule indicating the approximate date when construction of the PUD or stages of the PUD can be expected to begin and be completed;
- F) Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PUD, such as land areas, dwelling units, etc.

G) Proposed agreements, provisions or covenants which will govern the use, maintenance and continued protection of the planned development and any of its common open space.

H) Data indicating:

- 1) Total number and type of proposed dwelling units;
- 2) Gross and net acreage of parcel;
- 3) Acreage of gross and usable open space and
- 4) Area of any commercial or other uses

GRAPHIC MATERIAL - Five copies to be submitted.

A) Existing site conditions including contours at ten foot intervals and locations of water courses, flood plains, unique natural features, and wooded areas

B) Proposed lot line and plot designs;

C) Proposed location, size in square feet, and general appearance of all existing and proposed buildings and other structures and facilities;

D) Location and size in acres or square feet of all acres to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;

E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership - public or private - should be included where appropriate);

F) Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict;

G) Existing and proposed utility systems including sanitary sewers, storm sewers, water, electric gas, and telephone lines;

H) General Landscape plan indicating the treatment of both private and common open space and the location of required buffer strips;

I) Enough information on land areas adjacent to the proposed PUD to indicate the relationships between the proposed development and existing and proposed adjacent areas;

J) Any additional information required by the Administrator to evaluate the character and impact of the proposed PUD.

8-3.4 Notice for Public Hearing

The Planning Commission shall conduct a public hearing on every PUD preliminary plan within a reasonable time after said plan is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing; the fact that the hearing concerns a PUD preliminary plan and the location of the proposed PUD shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing. The required notices shall be given in the following manner:

- A) By first-class mail to the applicant and all property owners within 250' of the proposed PUD;
- B) By publication in a newspaper of general circulation within this municipality.

8-3.5 Advisory Report, Criteria Considered

Within a reasonable time after the public hearing, the Planning Commission shall submit to the City Council a written advisory report concerning acceptance/rejection of the Preliminary Development Plan. In deciding what their advice should be, the Planning Commission shall consider the following criteria:

- A) The extent to which the proposed development is consistent with the municipal Comprehensive Plan and with the purpose of this amendment and of all other applicable codes and ordinances;
- B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including but not limited to, the use, density, and lot and building regulations of the district), and the apparent merits of said deviations;
- C) Whether the proposed design of the PUD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open spaces, recreational facilities, preservation of natural features, and so forth;
- D) The compatibility of the proposed PUD with adjacent properties and surrounding area;
- E) The desirability of the proposed plan as it relates to the physical development, tax base and economic well being of the City.
- F) Any other reasonable criteria that the Planning Commission may devise.

8-3.6 Action by City Council

The City Council shall, by ordinance, act on the PUD Preliminary Development Plan at their next regularly scheduled meeting following submission of the Planning Commission's Advisory Report.

8-3.7 Modification of Zoning Map

Any approved preliminary development plan shall be reflected on the Zoning Map as an amendment of the District by designation of "-P" after the district abbreviation of the district in which the plan was approved.

SECTION 8-4 FINAL DEVELOPMENT PLAN PROCEDURE AND REQUIREMENTS

With respect to the preparation and submission of PUD Final Development Plans, the developer shall comply with the regulations of the following section.

8-4.1 Filing Required

Within one (1) year following the approval of the preliminary plan, the applicant shall file a final plan for the entire development or the first stage of the development containing in a final detailed form the required information. Prior to the end of the one (1) year period at its discretion and for good cause, the City Council may extend up to 3 one-year extensions for the filing of the final plan or stages. Extensions may be granted by the City Council following the applicant's submittal in writing the reasons for needing an extension. If the applicant fails to file a final plan within the aforementioned time period, the approval of the preliminary plan shall be null and void and the subject property shall revert to the zoning classification affixed to that property prior to the adoption of plan.

8-4.2 Required Information

The Final Development Plan filing fee (per stage) shall be two hundred dollars (\$200.00). The Final Development Plan shall contain in final form all the items of information required for the Preliminary Development Plan plus the following information. Only four copies of the final information are required. (Am. Ord. 08-07, passed 3-3-08)

- A) Legal description of each lot to be individually owned and each parcel to be held in common;
- B) Articles of Incorporation and Bylaws of the Homeowners' Association or any entity established to benefit the owners or residents of the PUD;
- C) Restrictive covenants and any other legal instruments required by the City Attorney Guaranteeing the proper upkeep and use of the common open space recreational facilities therein;
- D) Legal instruments dedicating streets and other improvements to this municipality or Conveying the same to the Homeowners' Association or any entity established to benefit the owners or residents of the PUD.

8-4.3 Advisory Report

Not later than sixty days after the application for Final Development Plan approval is filed, the Planning Commission - following consultation with applicable staff- shall submit a written Advisory report to the City Council. The Commission's Advisory Report shall fully discuss the extent to which the Final Development Plan conforms to the approved Preliminary Development Plan and to all applicable codes and ordinances.

8-4.4 Assurance for Completion of Required Improvements

The City Council shall not approve any PUD Final Development Plan until the developer has provided this municipality with adequate legal assurance to guarantee the satisfactory completion of all improvements required by the approved Preliminary Development Plan. The requirements for said assurance, are including but not limited to, a performance bond, an escrow deposit or a letter of credit and shall be substantially the same as the assurance requirements applicable to conventional subdivisions. The guidelines regarding the required assurances are given in the Subdivision Control Regulations. As built plans for all improvements must be submitted to the City upon completion of work. (Ord. 20-04)

8-4.5 Action by City Council

At their next regularly scheduled meeting following submission of the Planning Commission's Advisory Report, the City Council shall, by ordinance, either approve or disapprove the PUD Final Development Plan. Prior to the Council passing an ordinance on the Final Development Plan, the Administrator shall assure that the following has been completed.

- A) The Developer has posted the required assurances in the amount the Public Services Director deems sufficient to guarantee the satisfactory completion of all required improvements;
- B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory;
- C) The proposed PUD, as evidenced by the Final Development Plan, complies with all applicable codes and ordinances and substantially conforms to the approved Preliminary Development Plan.

8-4.6 Changes in Final Development Plans

No changes shall be made to any approved Final Development Plan of a PUD except as follows:

- A) Minor changes in the location, sizing, and height of buildings and structures may be reviewed and authorized by the Administrator if required by engineering or other circumstances not foreseen at the time the Final Development Plan was approved;
- B) Major changes which alter the concept or intent of the planned unit development including increases in density, uses, reductions of proposed open space, or other changes determined to be major shall be made by the City Council upon recommendation of the Plan Commission.
- C) No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Final Development Plan.

8-4.7 Failure to Begin Development

If substantial construction has not begun within one year of the date of the Final Plat approval, the Final Plan shall lapse. However, in its discretion and for a good cause, the City Council may extend up to 3 one-year extensions. Extensions may be granted by the City Council following the applicant's submittal in writing the reasons for needing an extension. As used in this section, substantial construction shall mean final grading for roadways necessary for first approved plat or phase of construction and commencement of installation of sanitary and storm sewers. If a Final Development Plan lapses as per this section:

- A) The Special Use Permit shall be automatically revoked;
- B) Any and all Building Permits shall automatically become null and void;
- C) All regulations applicable before the PUD was approved shall automatically be in full effect.

8-4.8 Recording of Development Plans

Following the approval of a final development plan, a copy of the plan shall be filed according to the stipulations of the Subdivision Control Ordinance. All plans and conditions of approval shall be kept on file with the Recorder of Deeds for public inspection. The restrictions on development and all other responsibility for compliance with the approved plan shall be binding upon all applicants, successors, grantees and assigns and shall limit and control the use of the planned development project as set forth herein. (Ord. 00-12, passed 8/7/00)