

ARTICLE 8 PLANNED UNIT DEVELOPMENT (PUD)

Section 8.10 Intent - Planned Unit Development (PUD)

It is the intent of this Article to provide for flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures, achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities, encourage useful open space and provide a variety of housing, employment and shopping opportunities. In order to accomplish these objectives, this Article permits the relaxation or waiving of one or more of the zoning district requirements otherwise applicable to the land proposed for a planned unit development (PUD). The use of land and the construction and use of buildings and other structures as a planned unit development shall be in conformance with the procedures, standards, requirements and conditions for eligibility contained in this Article. A Planned Unit Development shall be classified as a Special Land Use in all districts, subject to the provisions of this Ordinance.

Section 8.20 Qualifying Conditions

Any development that fails to meet the following qualifying conditions, at a minimum, shall not qualify for application as a PUD.

- a) All PUDs shall be served by public water and public sanitary sewer facilities or a private system approved by the City Council, the Ottawa County Health Department, or other agencies, as applicable.
- b) The tract of land for which a PUD application is received must be either in one (1) ownership or the subject of an application filed jointly by the owners of all properties and/or their agent. If the PUD application is filed by a prospective purchaser or option holder, written consent of all property owners must be submitted as evidence of their concurrence with the PUD application.
- c) The proposed uses and densities of the PUD must be consistent with the Master Plan for the subject property, unless otherwise noted in this Article.
- d) All PUDs shall contain a minimum of twenty-five percent (25%) open space meeting the requirements of Section 8.40 d), unless otherwise specified.
- e) The proposed PUD site shall have a minimum sixty-six (66) feet of frontage on an existing public road sufficient to provide access to the site.

Section 8.30 PUD Development Matrix

The following table summarizes allowed PUD developments, but is not exhaustive. Refer to Section 8.40 for complete requirements and exceptions to the requirements stated in the table.

| PUD Characteristics | PUD Types | | |
|---|---|--|---|
| | Residential PUD | Mixed Use PUD | Non-Residential PUD |
| Master Plan Land Use Designation ¹ | LDR, MDR, MDR-P, DR, MUR, TNR, CLS | CB, C, MUR | C (Commercial PUD); LI, PI(Industrial PUD) |
| Minimum PUD Area | 1-3 ac., if qualified; otherwise 3 ac. | C: 5 ac. All others: no minimum | 5 ac. (Commercial PUD); 10 ac. (Industrial PUD) |
| PUD Subtypes | Single Family Detached PUD; Single Family Attached PUD; Townhouse PUD; Duplex PUD; Multi-Family PUD; Mixed Density PUD | None | Commercial PUD Industrial PUD |
| Allowed Uses | All residential uses; Parks, natural areas and similar open space uses; Accessory recreational uses; Real estate office; Limited neighborhood commercial in MUR | Permitted and special land uses in the CC and GC zoning districts; Residential uses | Commercial PUD: any Permitted or Special Land Use within CC and GC zoning districts; Industrial PUD: Any Permitted or Special Land Use in the LI-1, LI-2 and LI-3 zoning districts |
| Density Bonus | Provided | Not provided | Not provided |

¹See City of Ferrysburg Master Plan [Ordinance 239, 08/20/07]

Section 8.40 Site Development Requirements

a) Residential PUD.

- 1) The Residential PUD site shall be on property designated Low Density Residential, Medium Density Residential, Dune Residential, or Mixed Use Residential PUD, Traditional Neighborhood Residential, or Cottage/Lakefront Settlement on the Future Land Use Map of the City of Ferrysburg Master Plan. [Ordinance 239, 08/20/07]

- 2) The Residential PUD site shall contain a minimum of three (3) acres of fully contiguous property not separated by a public road or private street that is not part of the PUD, nor by a railroad or other similar feature or barrier. However, land divided by an alley shall be considered fully contiguous.
- 3) Notwithstanding the above, however, a parcel containing less than three (3) fully contiguous acres as herein defined, but in no case less than one (1) acre, may be considered as a planned unit development if the City Council, upon recommendation by the Planning Commission, determines that the proposal meets all of the following criteria:
 - a. The proposed PUD will result in a development of greater quality than would be allowable under conventional zoning requirements;
 - b. There are physical conditions related to the property not created by the owner that do not permit increasing the area to meet the three (3) acre minimum, such as the placement of streets, natural barriers such as streams, wetlands or steep slopes, or established ownership patterns of adjacent properties;
 - c. The use of architectural and site design, building materials and colors, use of landscaping, and provision of site amenities is of sufficiently high quality that the reduction is warranted; and
 - d. The reduction is not proposed due solely to the inability of the applicant to meet the normal requirements of the zoning district in which the PUD is proposed.
- 4) The following uses shall be permitted:
 - a. Residential uses, including detached single family dwellings, attached single family dwellings, townhouse dwellings, two-family dwellings, multiple-family dwellings, and parks, natural areas, and other similar open space uses.
 - b. Leisure and recreational facilities accessory to the residential use . These facilities may include but are not limited to: marinas, health clubs, and similar uses when approved as part of the PUD.
 - c. One (1) real estate sales office may be permitted, provided the office is used solely for the purpose of marketing and selling properties located within the PUD, and provided that the office is located in a building or portion of a building approved as part of the PUD. Any real estate office proposed as a permanent use shall be so designated on the PUD plan.
 - d. For Residential PUDs over forty (40) acres in area on property designated as Mixed Use Residential on the Master Plan, the Planning Commission may allow limited neighborhood commercial uses, provided that:
 1. No more than twenty (20) percent of the total area may be dedicated to commercial uses, including parking areas;
 2. No commercial building may exceed six thousand five hundred (6,500) square feet in gross floor area;

3. Commercial buildings shall be designed so as to complement the residential neighborhood and may include dwelling units above the first floor;
 4. The commercial area of the PUD shall be designed to be easily accessed by pedestrians.
 5. The uses permitted shall be limited to neighborhood-oriented businesses that serve the residents of the PUD and adjacent residential neighborhoods. A list of specified uses allowed in the PUD, as recommended by the Planning Commission and approved by the City Council, shall be made a part of the final PUD Agreement. [Ordinance 239, 08/20/07]
- 5) The maximum number of dwelling units permitted by the City Council, upon recommendation by the Planning Commission, shall be determined by the designation of the Master Plan and/or the underlying zoning for the property on which the PUD is proposed. In any case, residential densities shall not exceed the following limits, unless otherwise permitted through the density bonus provisions of Section 8.50. If the PUD lies in more than one (1) Future Land Use category in the Master Plan and/or more than one underlying zoning district, the number of dwelling units shall be calculated on a proportionate acreage basis.

| Master Plan Designation | Zoning | Units Per Gross Acre |
|--------------------------------------|---------------|-----------------------------|
| Low Density Residential | RG1 | 6 |
| Medium Density Residential | RG-2 | 6 |
| Medium Density Residential PUD | RG-3 | 8 |
| Lakefront/Cottage Settlement | RG1 | 8 |
| Dune Residential | RD | 4 |
| Traditional Neighborhood Residential | RG2, RG3 | 4 |
| Mixed Use Residential | RD | 4 |

[Ordinance 239, 08/20/07]

- 6) The minimum requirements for building height, lot area, width, lot coverage and setback requirements for any lot designated for residential use shall comply with the following requirements:

| Use | Max. Building Height | Min. Lot Area (sq. ft.) | Min. Lot Width (ft.) | Max. Lot Coverage (%) | Minimum Setbacks (ft.) (see para. b, below) | | |
|---|--|-----------------------------|---------------------------|-----------------------|---|--------------------------|------|
| | | | | | Front | Side | Rear |
| Detached single family | As allowed by the zoning district ¹ | 9,000 | 66 | 35 | 25 | 10 | 40 |
| Attached single family, townhouses & two-family | As allowed by the zoning district ¹ | 7,000 per unit ² | 70 | 40 | 25 | 10 | 30 |
| Multiple Family | As allowed by the zoning district ¹ | 6,000 per unit ² | Same as RG-3 ¹ | 40 | 25 | 10 | 30 |
| | | | | | | 25 ft. between buildings | |

¹ See Section 9.140 for zoning district requirements

² This calculation shall not include the area of lots, parking, and any other associated areas dedicated to permitted non-residential uses.

- a. The City Council may, after recommendation by the Planning Commission, reduce the required setbacks and building separation in order to ensure proper and harmonious building relationships, protect or preserve natural features, or other purposes that conform to the intent of this Article. The plan shall address adequate buffers and setbacks for any site that is adjacent to properties in any Residential District that permits single-family uses, two family uses or PUD.
- b. Except as may otherwise be noted in this Article, all other site development requirements shall conform to the requirements of the underlying zoning district.
- c. Land not proposed for development but used for the calculation of overall density shall be considered open space, subject to the requirements of Section 8.40, d).

b)Mixed Use PUD.

1)Qualifying Conditions: The following conditions shall be satisfied prior to accepting an application for a Mixed Use PUD:

- a.The PUD site shall be designated as Central Business, Commercial or Mixed Use Residential PUD on the Future Land Use Map of the Ferrysburg Master Plan.
- b.The minimum required area shall be five (5) acres for property designated as Commercial on the Master Plan.
- c.There shall be no minimum required area for Mixed Use PUDs on property designated as Central Business or Mixed Use Residential PUD on the Master Plan. [Ordinance 239, 08/20/07]

2) Permitted uses in a Mixed Use PUD may include any Principal Permitted Use or Special Land Use within the Core Commercial and General Commercial zoning districts, along with accessory uses. In addition, residential uses are permitted subject to the following:

a. For properties designated as Central Business on the Master Plan, residential uses are permitted only above the ground floor of any building. Ground floor space shall be dedicated to office or commercial uses.

b. For properties designated on the Master Plan as Mixed Use Residential PUD or Commercial, residential uses may not occupy more than fifty percent (50%) of the ground floor area of any building that also contains a commercial or office use; nor shall residential uses occupy more than forty percent (40%) of the total gross floor area of all principal buildings within the PUD.

c. All residential uses shall be integrated into the design of the Mixed Use PUD with similar site development elements, such as architectural style, signs, landscaping, etc. [Ordinance 239, 08/20/07]

3) All merchandise for display, sale or lease shall be entirely within an enclosed building(s).

4) No minimum setback requirements shall apply. Setbacks and building separation shall be determined as part of the final development plan approval by the City Council, after recommendation by the Planning Commission. The plan shall address adequate buffers and setbacks for any site that is adjacent to properties in any Residential District that permits single-family uses, two family uses or PUD.

5) The maximum height of any principal building shall conform to the requirements of the underlying zoning district.

6) For mixed use PUDs on property designated Central Business or Medium Density Residential PUD on the Master Plan, the City Council, upon recommendation by the Planning Commission, may waive all or part of the twenty-five percent (25%) open space requirement in a Mixed Use PUD upon finding that such waiver meets one (1) or more of the following conditions: [Ordinance 239, 08/20/07]

a. The reduction in open space is necessary to allow for density and arrangement of uses to create a “town center” or pedestrian village atmosphere in accordance with the City’s Master Plan;

b. All or part of the required open space meeting the requirements of Section 8.40 d) has been provided elsewhere within adjacent or nearby developments;

c. The layout, design and/or architectural treatment prevents meeting the twenty-five percent (25%) requirement and is of sufficiently high quality or innovative design to warrant the reduction. An increase in residential density or the desire to provide a larger area for non-residential development shall not be considered as a sole reason for an open space reduction.

c) Non-Residential PUD.

1) The PUD site shall be designated by the Master Plan as “Commercial” for Commercial PUDs; or “Port” or “Light Industrial” for Industrial PUDs. [Ordinance 239, 08/20/07]

- 2)The Non-Residential PUD site shall be not less than five (5) acres in area for Commercial PUDs and not less than ten (10) acres in area for Industrial PUDs.
- 3)Any Principal Permitted Use or Special Land Use within the CC or GC Zoning Districts may be permitted within a Commercial PUD and any Principal Permitted Use or Special Land Use within the LI-1, LI-2 or LI-3 Zoning District may be permitted within an Industrial PUD. The PUD application and approval shall include the specific identification of uses to be permitted within the PUD, and only those uses so approved shall be permitted.
- 4)The minimum lot area requirements of the underlying zoning district shall apply to Commercial and Industrial PUDs, but may be reduced by no more than twenty five percent (25%) in a PUD, provided that the site is served by public water and sewer and adequate setbacks and buffers, as approved by the City Council after recommendation by the Planning Commission, are provided for any portion of the site adjacent to properties in any Residential District or Residential or Mixed Use PUD.
- 5)The minimum setback requirements (building and parking) of the underlying zoning district shall apply; however, setback requirements may be reduced up to twenty-five percent (25%) of the underlying zoning minimum, if deemed appropriate by the City Council, after recommendation by the Planning Commission. The plan shall address adequate buffers for any site that is adjacent to properties in any residential district or Residential or Mixed Use PUD.
- 6)All other site development requirements shall conform to the requirements of the underlying zoning district.

d)Open Space.

- 1)The City Council, after recommendation by the Planning Commission, shall find that, to the extent possible, designated open space is large enough and of proper dimensions to contribute significantly to the intent of the PUD.
- 2)Open Space Maintenance.
 - a.All open spaces shall be in the joint ownership of the property owners within the PUD. A property owners= association or similar arrangement for common ownership or maintenance agreement shall be formed which shall take responsibility for the maintenance of the open space. Alternatively, evidence shall be given that satisfactory arrangements will be made to relieve the City of future maintenance of the open space.
 - b.The maintenance requirements of natural areas designated as open space are not necessarily intended to require regular clearing, mowing or other active maintenance . For the purposes of this Article, a maintenance requirement for natural areas is intended to include such items as the removal of any accumulation of trash or waste material , clean up of storm damage, or removal of dead or diseased plant materials.
- 3)Open space shall be deed restricted, placed in a conservation easement, or otherwise held as open, undeveloped land in perpetuity. Suitable recorded instruments shall be submitted to the City Attorney for review prior to final approval of the PUD.

4)The open space shall be designed so that all residents of the PUD shall have reasonable access to it.

e)All other applicable requirements of this Ordinance shall apply to all PUDs unless specifically modified in this Article.

Section 8.50 Residential Density Bonus

a)In order to further promote the benefits of PUD for the City and the property owner, an optional density bonus may be requested which is intended to provide added incentive to utilize the PUD process, through increased densities and reduced minimum requirements beyond the basic PUD requirements of Sections 8.30 and 8.40. The residential bonus density may be awarded in exchange for substantial benefits to the community and to promote the City's goals and policies, as expressed in the Master Plan. This density bonus is to be used only for Residential PUDs meeting the requirements of Section 8.40, a).

b)Residential PUDs under ten (10) acres containing only Single Family Detached dwellings; or any Residential PUD containing Duplex and Townhouse dwellings.

1)A Residential PUD containing only detached single family development on properties less than ten (10) acres in area, or any duplex or townhouse residential PUD development, is eligible for a density bonus of up to twenty percent (20%), upon a finding by the City Council, after recommendation by the Planning Commission, that all of the following conditions are present:

a. The PUD allows redevelopment or infill of sites that are otherwise difficult or impractical to develop under conventional zoning, or natural features on the site are preserved that otherwise might be developed under conventional zoning, or other site conditions are present that make development under conventional zoning impractical; and

b. the PUD is of sufficiently high quality in such elements as layout, design, architectural treatment, landscaping and use of innovative storm water management techniques to warrant an increase in density.

c)b)Residential PUD of ten (10) acres or more, containing only single family detached dwellings.

1)In order to qualify for a density bonus, the property proposed for Planned Unit Development shall meet one (1) or more of the following:

a. The applicant must demonstrate that the property proposed for a density bonus contains significant and/or unique site conditions, significant natural features, or large open spaces which would otherwise be developed but which will be preserved from development as a result of exercising the density bonus.

b. The applicant must demonstrate, in writing and other appropriate material, that the proposed PUD, with its added density, meets the intent of this Article, as stated in Section 8.50,a), in addition to the PUD intent, described in Section 8.10 and all other requirements of this Article for a PUD.

c. The PUD provides one (1) or more of the following features:

1. Walking trails/bikeways/pathways through the entire PUD and/or links to adjacent facilities of a similar nature
2. Active recreation areas (ball field, tennis court, small playground area or “tot lot,” swimming pool, etc.) at a ratio of at least one (1) facility per twenty-five (25) dwelling units.
3. Innovative design features, such as traditional neighborhood development, traffic calming measures, innovative stormwater management, and other similar features throughout the development.

2)A Single Family PUD density bonus shall be based on an aggregate of one (1) or more of the following elements for which the PUD qualifies, as determined during the Preliminary Plan review; provided the total density bonus shall not exceed a maximum of one hundred percent (100%) of the units otherwise permitted in Section 8.40, a), 5). Where applicable, the City Council, after recommendation by the Planning Commission, may award a smaller bonus than the maximum permitted below. In determining the amount, if any, of a density bonus to be awarded, the City Council and Planning Commission shall consider the location, character, quality and extent of the elements provided.

a. Clustered development may qualify for density bonuses in accordance with the following:

1. Not less than thirty percent (30%) open space. Five percent (5%) density bonus.
2. Not less than thirty-five percent (35%) percent open space. Ten percent (10%) percent density bonus.
3. Not less than forty percent (40%) percent open space. Fifteen percent (15%) percent density bonus.
4. Not less than forty-five percent (45%) percent open space. Twenty percent (20%) percent density bonus.
5. Not less than fifty percent (50%) percent open space. Twenty-five percent (25%) percent density bonus.
6. Not less than fifty-five percent (55%) percent open space. Thirty-five percent (35%) percent density bonus.
7. Not less than sixty percent (60%) percent open space. Forty-five percent (45%) percent density bonus.

b. Preserving natural features such as wooded areas, wetlands, floodplains, and unique vegetation areas will qualify for up to a thirty percent (30%) density bonus, depending on the degree of preservation and preservation plan.

c. If, due to the use of setbacks, vegetative screen, topographic relief, or a combination of such elements, no dwelling units or other developed portion of the PUD, other than the entrance road, are visible from any perimeter road, a bonus density of up to twenty-five percent (25%) percent may be granted.

d. Providing a natural vegetative buffer of at least one hundred (100) feet around the perimeter property lines of the PUD will qualify for a density bonus of up to twenty-five percent (25%).

e. Including a restriction in the PUD agreement prohibiting the removal of tree cover (except for dead and diseased trees) beyond a fifty (50) foot distance from all dwelling units (except for roads or other necessary elements of the PUD) will qualify for up to a ten percent (10%) density bonus.

f. Providing passive recreation opportunities for the residents of the PUD, including trails, boardwalks, nature interpretive markers, and similar amenities throughout the site will qualify for up to a ten percent (10%) density bonus.

g. Combining three (3) or more parcels under different ownership for the PUD project will qualify for up to a ten percent (10%) density bonus.

h. Use of innovative storm water management techniques, such as rain gardens, pervious surface paving, vegetative swales, or green roofs, will qualify for up to a twenty percent (20%) bonus.

3) The following development regulations apply to Single Family Residential PUDs of ten (10) acres or over where a density bonus is to be awarded.

a. Principal and accessory buildings shall maintain at least a fifty (50) foot setback from the boundaries of the PUD site, unless a greater distance is required by this Article.

b. Lot sizes for detached single family dwellings may be reduced from the minimums specified elsewhere in this Article, but shall not be less than seven thousand (7,000) square feet in area. There shall be no minimum yard setback requirements; provided, no principal buildings shall be closer than ten (10) feet to any other building.

c. No building site shall be permitted to gain direct access to any public or private street not constructed or planned as part of the PUD.

d. Natural vegetation on single family residential lots shall be preserved to the greatest degree possible. The total clearance zone area of any single family residential lot shall be limited to that necessary to construct buildings, drives, sidewalks, or other facilities or structures, but in any case shall be limited to fifteen thousand (15,000) square feet, or forty percent (40%) of the area of the lot, whichever is less; unless density bonus points have been granted based on more restrictive requirements, in which case the more restrictive shall prevail. In any case, the Planning Commission, as part of Final Plan review, may allow additional lot clearance zone area upon finding that the applicant has demonstrated that such a limitation does not allow sufficient area for building and lot development, due to the presence of significant natural features or other limitations related to the physical features of the site.

e. Clearance zone areas shall be clearly staked on each lot by the developer and approved by the Zoning Administrator prior to any construction activity or land clearing and no disturbance of the site shall take place outside of the clearance zone. This does not prohibit, however, thinning of overgrowth and removal of noxious species.

f. A development setback of at least seventy-five (75) feet shall be provided from any abutting perimeter street not part of the PUD. No building envelope shall be permitted within the development setback.

1. No native or natural vegetation shall be removed from the development setback, except for that necessary for entrance streets or private roads. The Planning Commission may modify this requirement; provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the intent of this Article, as described in Section 8.10.

2. No grading or changes in topography shall be permitted, except as may be necessary to construct entrance streets or private roads, or provide screening as noted in paragraph 3, below.

3. The required seventy-five (75) foot setback may be reduced to not less than twenty-five (25) feet; provided a year-round, opaque, natural screen is present or installed which shall afford the desired screening of the development from the street view. Such screen shall consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof, but shall not include fences or walls.

4. The development setback area shall qualify as meeting the required open space, provided that the requirements 8.40, d) are met.

g. All requirements of Section 8.40, d) shall also apply.

Section 8.60 PUD Application Processing

Overview of PUD Review Process

| | | |
|---|---|--|
| Planning Commission Pre-Application Conference → → → → → → → → → | Planning Commission Public Hearing and Review with Recommendation to City Council → → → → → → → → → | City Council Review and Final Action → → → → → → → → → <i>PUD Special Land Use approved or denied</i> |
|---|---|--|

a) A PUD shall be processed in the same manner and be considered as a Special Land Use.

b) Pre-application Conference - A pre-application conference shall be held with the Planning Commission for the purpose of establishing general direction and eliciting feedback from the Planning Commission regarding the general content of a proposed planned unit development. Application for a pre-application conference shall be made on an appropriate form provided by the Zoning Administrator. The application for a Pre- application conference shall include a basic concept plan that conforms to the requirements listed in Section 5.20, d).

c) Development Plan Application Requirements - Applicants seeking approval of a planned unit development shall submit a complete application for review of the proposed development plan to the Zoning Administrator at least thirty (30) days prior to review by the Planning Commission. Such application shall contain all of the following:

1)Site Plan Copies and Information - Fourteen (14) copies of a proposed, fully dimensioned, site development plan encompassing all phases of the proposed PUD and containing all site plan information required by Article V.

2)Detail Regarding Waiver of Standards - A listing of the underlying zone district requirements and standards that the applicant seeks to have relaxed and/or waived based on the design and uses proposed for the PUD.

3)Project Narrative - A narrative statement describing the overall objectives of the PUD and the Standards for PUD Approval [Section 8.70].

4)Application - A completed application on a form supplied by the City.

5)Fee - Payment of the required PUD plan review fee and any other fees required by the City.

d)Notices, Public Hearings, and Review Process

Publication of notices, conduct of public hearings, Planning Commission and City Council review of PUD site plans shall conform to the requirements in Article IV, Special Land Uses.

Section 8.70 PUD Approval Standards

A planned unit development shall be approved only if it complies with each of the following standards. The PUD shall:

a)Meet the requirements of Article V, Site Plan Review Standards.

b)Be consistent with Section 4.20, Standards for Approval of Special Land Uses, and Section 5.70, Site Plan Review Standards.

c)Where feasible, natural features shall be preserved and integrated into the overall site design. In the event the integration of such features is not practicable, the PUD shall incorporate a site development and landscape program of sufficient quality, character, and mass to mitigate the loss of the site's natural characteristics.

d)Be consistent with the public health, safety and welfare needs of the City.

e)Be designed to provide safe and efficient ingress and egress, with particular reference to pedestrian safety and convenience, traffic flow and control and access in case of fire or other emergency. Multiple structures and uses shall be linked via an internal system of sidewalks and streets.

f)Be designed such that the proposed character and placement of buildings and other structures, parking, lighting, signs, refuse storage, landscaping and other site elements are compatible with surrounding properties. This includes a determination that any waiver and/or relaxation of underlying zone district requirements will not be detrimental to the internal elements of the PUD, surrounding area, and City as a whole.

Section 8.80 Conformity With Approved PUD Plan and PUD Agreement

a)Construction Must Conform to Approved Plan - Following approval of a planned unit development, no construction on the land included in the planned unit development shall be undertaken unless it conforms to the approved plan, including any conditions imposed in conjunction with the Special Land Use approval.

b)PUD Agreement - Prior to issuance of any building permits for construction of any portion of a planned unit development, the applicant shall enter into an agreement with the City Council setting forth the applicant's obligations with respect to the planned unit development. The agreement shall describe all improvements to be constructed as part of the planned unit development, and shall incorporate by reference the final development plan submitted with the planned unit development application, other documents which comprise the planned unit development, and all conditions attached to the approval by the City Council. The agreement shall also establish the remedies of the City Council in the event of default by the applicant in carrying out the planned unit development, and shall be binding upon all successors in interest to the applicant. These remedies may include, but shall not be limited to, performance guarantees in conformance with the requirements of Section 12.60.

Section 8.90 Changes To An Approved Planned Unit Development

a)Changes to an Approved PUD Plan - With the exception of minor amendments, no changes to an approved final development plan for a planned unit development shall be made, except by mutual agreement between the applicant and the City Council after recommendation by the Planning Commission. Revisions not considered minor to an approved PUD final development plan or to any conditions imposed shall be processed in the same manner as an original PUD application.

b)Minor Amendments - Minor amendments may be made to the PUD plan under the provisions of Section 5.100 of this Ordinance, provided, however, modification of a specific condition attached to the PUD shall only be changed according to the provisions of paragraph a), above.

Section 8.100 Time Limit For Approved Planned Unit Developments

a)Construction Commencement - An approved planned unit development, or approved PUD phase, shall commence construction and proceed meaningfully toward completion within twelve (12) months from the date on which the PUD agreement is approved by City Council. At a minimum, "proceeding meaningfully toward completion" shall refer to the active construction or completion of infrastructure (e.g. roads, water, sanitary sewer, storm sewer, street lights, buffers, soil stabilization, and so forth) and conditions, if any, necessary to support the PUD land uses.

b)PUD Extension of Time for Construction - The owner or applicant of the planned unit development may apply to the City Council for one (1) extension of the original approval for an additional term of one (1) year. The City Council may, in its discretion, authorize this extension. In approving an extension, the City Council shall consider the following factors:

1)The approved planned unit development, or approved phase thereof, has encountered unforeseen difficulties beyond the reasonable control of the owner/applicant.

2)The approved planned unit development, or approved phase thereof, has a likelihood of proceeding within the extended time period.

c)Voiding of PUD Approval Due to Non-Construction - If the planned unit development, or approved phase thereof, has not commenced and proceeded meaningfully towards completion at the end of the initial twelve (12) month time period, or any extension thereof, then the planned unit development approval shall be automatically null and void. Thereafter, additional construction on the site will require the filing of a new PUD application, or other appropriate zoning application if the project is no longer to continue as a PUD. The City Council may exercise the full benefits of any existing performance guarantee as determined necessary and appropriate.

d)Modified Construction Schedule Oriented to the PUD - In lieu of the above, items a) through c), the City Council may approve a construction schedule oriented specifically to the proposed planned unit development, including any phases thereof. In approving a modified construction schedule, the City Council shall determine that a typical completion schedule is not appropriate, or in the best interest of the City, based on the size, complexity, and/or uniqueness of the planned unit development.

Section 8.110 Phasing the PUD

a)Request for PUD Site Development Phasing - At the request of the applicant, coincident with the filing of the original PUD application, the City Council may consider and approve a PUD to be constructed in phases (differing sequences of time). If a phased PUD is approved, only approved phases shall receive necessary City permits for construction purposes.

b)PUD Application and Site Plan for Phased Construction - Generally, the PUD application and site development plan shall be fully executed and cover the entire site, according to the provisions of this Article. At the discretion of the City, the level of site plan detail and associated documentation normally required may be relaxed for future phases until such time that these phases become subject to the site plan review requirements specified under subparagraph c), following. The degree to which submission of any information may be relaxed shall be subject to the full discretion of the City Council.

c)Approval and Construction of Future Phases - Provided the original PUD plan as approved, including future phases, remains unchanged, subsequent construction phases shall be processed under the site plan review and approval provisions of the Zoning Ordinance in effect at the time of the applicant's request to proceed with a subsequent construction phase.

d)Installation of Improvements and Performance Guarantees - In approving a phased PUD, the City may permit the project's infrastructure and conditions, if any, to be constructed in time frames consistent with the construction of approved phases; or, the City may require immediate installation of any or all of the infrastructure and/or other public elements and conditions necessary to serve the entire PUD site. Similarly, for a phased PUD, the City may permit performance guarantees in accordance with the provisions of Section 12.60 to be allocated and

submitted as the various phases are approved for construction; or, may require a performance guarantee to cover multiple phases or the entire project.

[This article adopted via Ordinance No. 229, 2/20/06]