

CITY PLANNING BOARD

BOARD AGENDA

Planning Board Regular Meeting - Tuesday, October 14, 2014 - 6:00 p.m.

City Hall - City Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **CONSIDERATION OF ABSENCES**
5. **CERTIFICATION OF ALTERNATE MEMBER VOTING STATUS**
6. **APPROVAL OF MINUTES**
 - a. September 9, 2014 Meeting
7. **NEW BUSINESS**

Due to Veteran's Day, the next Planning Board meeting is on Wednesday, November 12, 2014.

 - a. To review and recommend approval of a Amendment to Section 22-40, Planned Unit Development (PUD), of the Fort Pierce City Code
8. **BOARD COMMENTS**
9. **ADJOURNMENT**

Any person seeking to appeal the decision of the Planning Board of the City of Fort Pierce, Florida, as to the foregoing, is advised that a record of the proceedings is required in any such appeal, and any such person may need to ensure that a verbatim record of proceedings is made including the testimony and evidence upon which the appeal is to be based.

Persons who require special accommodations under the Americans with Disabilities Act (ADA)

should contact the Planning Department at (772) 467-3729, at least five (5) days prior to the meeting. Persons who are hearing or speech impaired may use the Florida Relay System by dialing 711.

Planning Board

6. a.

Meeting Date: 10/14/2014

Information

REQUESTED ACTION

September 9, 2014 Meeting

LOCATION

RESPONSIBLE STAFF

RECOMMENDATION

Attachments

Planning Board Minutes 9/9/2014

Form Review

Form Started By: Alicia Rosenthal

Started On: 10/06/2014 09:29 AM

Final Approval Date: 10/06/2014

DRAFT



CITY OF FORT PIERCE PLANNING BOARD

Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, **SEPTEMBER 9, 2014**, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

Present: Eduardo Mujica; Phyllis Castro; Tim O'Connell; Erica Ganzi; Robert Poitier; Eloise Cummings; Marcia Baker; Steve Weaver; Chairman Bob Burdge; John George; Mr. George entered the meeting at 6:05 PM.

Absent: Brian Paul; Mike Dahan

Staff Present: Rebecca Grohall, AICP, Planning Manager
James Walker, Assistant City Attorney
Sandy Ramseth, AICP, Senior Planner
Alicia Rosenthal, Administrative Assistant

4. **CONSIDERATION OF ABSENCES**

Motion was made by Phyllis Castro, seconded by Tim O'Connell to excuse the absence of Mike Dahan but not Brian Paul.

AYE: Eduardo Mujica, Phyllis Castro, Tim O'Connell, Erica Ganzi, Robert Poitier, Eloise Cummings, John George, Marcia Baker, Steve Weaver, Chairman Bob Burdge

Passed

5. **CERTIFICATION OF ALTERNATE MEMBER VOTING STATUS**

Mr. Weaver participated in discussions and voting.

6. **APPROVAL OF MINUTES**

a. July 8, 2014 Meeting

Motion was made by Robert Poitier, seconded by John George to approve the minutes for the July 8, 2014 meeting.

AYE: Eduardo Mujica, Phyllis Castro, Tim O'Connell, Erica Ganzi, Robert Poitier, Eloise Cummings, John George, Marcia Baker, Steve Weaver, Chairman Bob Burdge
Passed

7. NEW BUSINESS

- a. The applicant is requesting Conditional Use approval for the Spin Win Adult Arcade. The proposal is to house 50 arcade machines within two adjoining units in the existing Sunrise Plaza Shopping Center located at 511/513 Georgia Avenue.

Ms. Ramseth gave an overview of the application. Erik Pratt, Applicant, answered questions. Hoyt C. Murphy, Jr., Property Owner, and Mike Menard from Cook & Menard Architecture commented. Mr Weaver filled out form 8B and was recused from voting. The board discussed the application.

Regarding whether the arcade was legally licensed with the state of Florida, Mr. Walker, Assistant City Attorney, stated that the parameters of the boards authority are bound by the code of the City of Ft. Pierce and it is not the function of the board to look behind the city's code and to determine for itself whether those provisions are legally sufficient or not. The board makes it decision based upon the code that is in front of it as adopted by the City of Ft. Pierce.

Motion was made by Robert Poitier, seconded by Marcia Baker to approve the conditional use for Spin Win Arcade with the condition that all landscaping, lighting and payment in lieu for the sidewalks are completed prior to final inspection.

AYE: Eloise Cummings, Phyllis Castro, Tim O'Connell, Robert Poitier, John George, Eduardo Mujica, Marcia Baker, Erica Ganzi, Chairman Bob Burdge
Other: Steve Weaver (RECUSE)
Passed

- b. Approval of a City initiated Rezoning from R-1 to PUD for Carriage Pointe Estates.

Ms. Ramseth gave an overview of the application. The board discussed the application. No one in the audience spoke in favor or in opposition of the application.

Motion was made by Steve Weaver, seconded by Robert Poitier to approve the rezoning of Carriage Point Estates from an R-1 zoning district to a PUD zoning district as a scrivener's error.

AYE: Steve Weaver, Erica Ganzi, Marcia Baker, Eduardo Mujica, John George, Robert Poitier, Tim O'Connell, Phyllis Castro, Eloise Cummings, Chairman Bob Burdge
Passed

- c. Approval of proposed amendments to Section 22-40, Planned Unit Development zone (PUD).

Ms. Ramseth gave an overview of the application. Harold Smith, Ft. Pierce resident, commented. Board discussion ensued.

Motion was made by Erica Ganzi, seconded by Robert Poitier to table the vote until next month.

AYE: Phyllis Castro, Robert Poitier, John George, Eduardo Mujica, Erica Ganzi, Eloise Cummings, Chairman Bob Burdge

NAY: Tim O'Connell, Marcia Baker, Steve Weaver

Passed

8. CPTED PRESENTATION

CPTED presentation was given by Officer Glenn-Reed of the Ft. Pierce Police Department. The board discussed the presentation.

9. BOARD COMMENTS

Two former board members have passed away William D. Dannahower and Bill Clancy.

10. ADJOURNMENT

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME WEAVER STEVEN MICHAEL	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE PLANNING
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY FORT PIERCE COUNTY	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED 9/9/14	NAME OF POLITICAL SUBDIVISION: FORT PIERCE
	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Steve Wearn, hereby disclose that on 9/9/14, 20 :

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, HOYT C. MURPHY REALTORS;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

MY REAL ESTATE LICENSE IS WITHIN THE BROKERAGE HOYT C. MURPHY REALTORS, APPLICANT/OWNER.

9/9/14
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Planning Board

7. a.

Meeting Date: 10/14/2014

Information

REQUESTED ACTION

To review and recommend approval of a Amendment to Section 22-40, Planned Unit Development (PUD), of the Fort Pierce City Code

LOCATION

N/A

RESPONSIBLE STAFF

Sandy Ramseth, AICP, Senior Planner

RECOMMENDATION

The Planning Board forward to the City Commission a recommendation to approve the proposed changes to Section 22-40.

Attachments

Staff Report

Revised Sec. 22-40 - Clean

PD Version #2 - Strikeout/Underline

Existing Section 22-40

Form Review

Form Started By: Sandra Ramseth

Started On: 10/07/2014 12:38 PM

Final Approval Date: 10/07/2014



CITY OF FORT PIERCE

PLANNING DEPARTMENT

REBECCA GROHALL, AICP, PLANNING MANAGER
COMPREHENSIVE PLANNING ♦ DEVELOPMENT REVIEW
HISTORIC PRESERVATION ♦ URBAN DESIGN ♦ URBAN FORESTRY ♦ ZONING

TO: Members of the City of Fort Pierce Planning Board

THROUGH: Rebecca Grohall, AICP, Planning Manager

FROM: Sandy Ramseth, AICP, Senior Planner

SUBJECT: Proposed Amendments to the PUD Zoning District

DATE: October 7, 2014

Introduction: The following Staff Report and accompanying PUD/PD Zoning District rewrite were reviewed at the September 9th Planning Board meeting. Comments and discussion ensued resulting in the Planning Board tabling the item with the recommendation that the comments be considered; revisions made as necessary, and brought back for the October 14th meeting. In addition, comments were also solicited from interested professionals who will no doubt utilize this rewrite in their line of work at some point. Staff thanks them for their time and helpful insight.

STAFF REPORT

The following Staff Report and accompanying PUD/PD Zoning District rewrite were reviewed at the September 9th Planning Board meeting. Comments and discussion ensued resulting in the Planning Board tabling the item with the recommendation that the comments be considered; revisions made as deemed necessary, and then bring back for the October 14th meeting. In addition, comments were also solicited from interested professionals who will no doubt utilize this rewrite in their line of work at some point. Staff thanks them for their time and helpful insight.

Recently, the City has experienced an upsurge in developer interest. Some of the projects that show potential might possibly require a rezoning in order for them to come to fruition. cursory review of these projects also indicates that some projects may not fit into some of the City's standard zoning designations.

The City's current PUD zone is *"intended to provide for comprehensive developments incorporating residential uses, a substantial amount of open space and appropriate commercial, public and semi-public uses. It is designed to achieve a desirable environment through application of flexible and diversified land development standards in an overall site plan. It is further intended to promote economics in land development, maintenance, street systems and utility networks."*

The current PUD zoning designation requires *"comprehensive development incorporating residential uses"*. This is an antiquated view of a PUD. Not all Planned Unit Developments should have to incorporate residential. Furthermore, there has not been a PUD development in the City in a decade indicating that the PUD as currently written is not fulfilling its role to provide flexible land development standards.

The following is a discussion of proposed amendments to Section 22-40, Planned Unit Development zone (PUD), in an effort to accomplish the following:

- **Provide and promote greater flexibility for design and diversification;**
- **Streamline the review process;**
- **Allow for phasing of the project;**
- **Establish a modification procedure; and**
- **Modify the nomenclature from PUD to PD.**

Over the past few years, Staff, Planning Board members, Advisory Group representatives, and interested stakeholders have been actively reviewing drafts of the proposed Land Development Regulations (LDR's) as part of a comprehensive rewrite tasked by Duncan Associates, Inc. This process was undertaken to replace LDR's that have been dormant for almost 30 years, or since 1981. For the most part, this draft has been shelved with the exception of some select sections of re-writes moving forward for adoption. Staff now desires to move forward with one more selected section of the LDR for adoption. It should be noted that staff did review the Duncan Associates' draft of Section 22-40, and felt it did not provide the flexibility or streamlining desired for the revised code. The PD as presented came in three different versions, all containing a residential component:

a) Planned Residential Development (PRD): Developments that seek greater flexibility in housing types and sizes than is provided by base district and in return offer enhanced amenities and protection of natural and historic resources and sensitive environmental features, including, flood hazard areas, jurisdictional wetlands and native uplands habitat.

b) Traditional Neighborhood Development (TND): Developments characterized by lot or parcel configurations, street patterns, streetscapes, and neighborhood amenities commonly found in urban neighborhoods platted or otherwise created before the 1950s.

c) Mixed-use Development (MXD): Developments that contain a complementary and integrated mix of residential and nonresidential uses.

These Duncan Associates, Inc. development categories will not fill the needs of someone wanting to do a commercial/office or industrial type site. Further, the PD option was available as an overlay rather than zoning district with the original underlying zoning still intact, further complicating and limiting an otherwise straightforward process. However, all three of these type PDs will be possible in the following proposed amendment.

A more modern view of a PUD is an assembly of compatible uses, using design and layout of the developers' liking to make for a functionally cohesive project. In some cases, a PUD may incorporate only one use type, but in a manner or design not consistent with current standard zoning destinations. A PUD can be thought of as a zoning designation that could work when all others fail to fit the needs of the development. But this is not to be construed as a zoning designation that gives away the farm; quite the contrary. It is a designation that allows for the governing body to have the most input and ability to condition how the project will be built. It is a genuine give and take process between the developer and regulators. The City may relax on some development criteria, and in return can often leverage that into meaningful assurances from the developer.

In addition to the antiquated requirements of the current PUD designation, the PUD process is more laborious than it need be. Sure it is the rezoning process and site plan review done simultaneously, but it should be just that—those two processes combined. To have all the extra steps, such as concept plan approval, is not only redundant, but time consuming for the developer which translates into costs; unnecessary ones at that. So to streamline the process would be good for business, so to speak.

Further, it has been noted the current PUD designation had not been successfully utilized in almost a decade. The most active and successful PUD projects located throughout the City have come by way of annexation from the County. The last project to utilize the City's PUD process was Harbor Isle in 2004.

Finally, a change in nomenclature from PUD to PD is recommended for two reasons: the first being that it indicates a change in the code; that something new has been added or revised which may make it worth consideration for a developer. Secondly, removing the "U" meaning unit which is usually synonymous with a residential unit is in keeping with the revision of Section 22-40, in that residential units are no longer required to be part of this zoning district.

Therefore, for all the aforementioned reasons, staff feels breathing new life into the PUD/PD designation and process could have immediate and positive impacts for new and innovative projects to call Fort Pierce home.

The following changes are being proposed, with items in **RED** being revisions from the last version:

- **To change the nomenclature from Planned Unit Development (PUD) to Planned Development (PD);**
- **Expanding and clarifying the purpose and intent of the PD zoning designation;**
- **Eliminate the requirement for a residential component within a PD;**
- **Allow any combination of compatible uses within a PD;**
- **Allow for a single use PD, if the design/layout is innovative and does not fit within a standard existing zoning district;**
- **Density allowed only as consistent with Comprehensive Plan;**
- **Decrease the minimum size of a PD from 5 acres to any City property, regardless of size;**
- **Reduce the amount of required open space from 40% of the site to be determined as a product of good site design and innovation; not merely leftover or throw-away land;**
- **Gives freedom of design to the developer rather than follow set rules of a standard zoning district;**
- **Allows for phasing of a project with time limits;**
- **A streamlined review process similar to the City's current site plan review process, eliminating the extra steps of a mandatory "concept plan" as previously required, however the concept plan is still an option of applicant's choosing;**
- **A procedure to modify PD plans, with minor modifications being done administratively, and major modifications processed similar to new applications;**
- **Establish modification review criteria to determine the level of modification; and**
- **Expiration of and approved plan that has failed to commence.**

It should be noted that the latest adopted Comprehensive Plan (February 2011) contains policies that should be reflected within the LDR's. Accordingly, these proposed changes are consistent with the adopted plan, and due to the somewhat negotiated nature of PD zoning, will be able to uphold the

Comprehensive Plan at an enhanced level. The following policies support the changes in Section 22-40, Planned Unit Development zone (PUD):

1.1.17 Policy:

Reduce vehicle miles traveled (VMT) and greenhouse gas emissions (GHG) by requiring developments to maximize internal trip capture, provide pedestrian connectivity to surrounding properties, and reduce the number of auto-oriented trips through Transportation Demand Management (TDM).

1.3.1 Policy:

The City shall evaluate land use amendment applications and development proposals for compatibility with the Comprehensive Plan, the City's character, future land use designation, and the adjacent properties.

1.3.2 Policy:

The City will permit the redevelopment of a non-conforming use when the redevelopment will result in a use that is more conforming to the permitted uses in the existing zoning district. The City will require such redevelopment to bring the site into compliance with parking, landscaping, signage, open space, and stormwater management requirements.

1.16.2 Policy:

The City shall distribute land uses in a manner that avoids or minimizes, to the greatest degree practicable, negative impacts on lands recognized by the county, state or federal government as environmentally sensitive.

1.16.3 Policy:

The City shall require site plan review of all proposed development or redevelopment to prevent unnecessary destruction or inappropriate use of existing natural resources and natural sites.

1.16.4 Policy:

When a parcel proposed for development contains more than one habitat type, the City shall require development to avoid the most sensitive natural areas to the maximum extent feasible through clustering provisions.

1.16.6 Policy:

The City shall require all development applications to minimize tree removal as a part of land development. The City shall require a tree survey to be provided which identifies trees for removal, relocation, and protection.

1.17.3 Policy:

The City shall require open space as a part of the requirements for all development and redevelopment to promote shallow water aquifer recharge and stormwater filtration.

The proposed amendment is consistent with the Comprehensive Plan. In addition, the amendment proposed satisfies the following standards specified in Section 22-131 of the City Code:

- (1) The amendment will not have an adverse affect on the ability of the City to:
 - a. Satisfy land and water use needs
 - b. Meet transportation demands and provide community facilities and services
- (2) The amendment will promote and protect the public health, safety and general welfare.

Staff Recommendation:

As no inconsistencies have been identified between the proposed changes and the Comprehensive Plan or Chapter 22 of the City Code, Staff recommends that the Planning Board forward to the City Commission a recommendation to approve the proposed changes to Section 22-40.

Sec. 22-40. - Planned Development zone (PD).

(a) *Purpose.* The PD District is intended to provide a process for the evaluation of individually Planned Developments which are not otherwise permitted in the zoning districts established by this Chapter. The PD District is to be a voluntary process commenced by an applicant for such zoning designation. The standards and procedures of this district are intended to promote flexibility of design and permit planned diversification and integration of uses and structures, while at the same time granting the City Commission the absolute authority to establish such limitations and regulations as it deems necessary to protect the public health, safety and general welfare. In so doing, the PD district is designed to:

- (1) Provide for the planning, review and approval of one (1) or a combination of residential, commercial, public and industrial land uses not otherwise allowed under general zoning districts.
- (2) Encourage structures which result in an organized, compatible development within and with surrounding land uses in density and intensity of use.
- (3) Allow flexibility through a more efficient arrangement of structures, utilities, on-site circulation, and ingress and egress than is permitted under conventional zoning and subdivision regulations.
- (4) Encourage the preservation of environmental assets and natural amenities as scenic and functional open-space areas.
- (5) Encourage usable open space by permitting a more concentrated building area than is allowed under conventional zoning and subdivision regulations.
- (6) Encourage innovative site planning and land development concepts in order to create an aesthetically pleasing and functionally desirable living environment while preserving onsite natural elements and cultural resources.
- (7) Promote flexibility and efficiency in site design for more desirable living and working environments.
- (8) Promote development that is adapted to natural features, including wetlands, trees and other vegetation and habitat, and which avoids the disruption of natural drainage patterns.
- (9) Permit site specific requirements based on the unique characteristics of the individual site.
- (10) Permit site specific limitations where necessary to protect public health, safety, or welfare, or for the protection or preservation of lands either internal or external to the Planned Development.

(b) *General standards for approval.* The Planned Development (PD) district is designed to allow an applicant to submit a proposal for consideration, for any use or any mixture of uses, The approval of Planned Development rezoning rests with the City Commission. However, no rezoning or development plan may be approved unless the following conditions are met:

(1) *Comprehensive Plan Consistency.* Any residential, commercial, industrial, or public land uses and structures are permitted in this district, provided the proposed development is shown to be consistent with the goals, objectives and policies of the comprehensive plan, and consistent with the future land use element, and the standards and criteria contained in the following sections, unless a corresponding amendment to the Comprehensive Plan is also adopted.

a *Density.* In no event shall the density granted exceed the maximum gross density

permitted under the underlying land use in the Comprehensive Plan.

(2) *Perimeter Setbacks.* Setbacks at the perimeter of the development shall be equal to those of the abutting zoning district(s), except where City Commission finds that alternate perimeter setbacks would be appropriate. Conditions under which alternate perimeter setbacks may be considered include, but are not limited to, the following:

a. Property in the abutting zoning district is located across a major roadway from the PD, and therefore, a reduced setback would have little or no impact on the character of the adjacent property;

b. The minimum PD perimeter setback required by this section cannot be achieved due to an exceptional narrowness, shallowness, shape, topographic condition or physical or environmental feature uniquely affecting the subject property.

(3) *Open space.* Open space shall be provided; it may include vegetated areas, or urban areas unencumbered by an impervious surface. The amount of open space is a product of the design, and should be factored in as part of the overall design, and not merely “leftover”, unused land.

(4) *Applicability to Other LDRs.* All building code, housing code, and other land use regulations of the City of Fort Pierce are applicable to the PD district.

(5) *Easements.* Easements necessary for the orderly extension and maintenance of public utilities and/or other special needs may be required as a condition of approval.

(6) *Phasing.* When provisions for phasing are included in the development plan, each phase of development must be so planned and so related to previous development, surrounding properties, and the available public facilities and services, that failure to proceed with subsequent phases will not adversely impact drainage, utilities, parking or the traffic flow of the completed phases.

(7) *Other standards.* All Planned Developments will comply with regulations affecting signs referred to in section 22-55 and applicable portions of the City's regulations governing subdivisions except that in case of conflict,

(8) *Additional requirements.* The City Commission may also establish additional requirements which it considers necessary to assure that a Planned Development conforms to the intent of this section.

(9) *Variances are Not Necessary.* The specific development standards of the PD district are contained in the approved development plan for each Planned Development which normally takes into account those matters which might otherwise be the subject of variance review by the Board of Adjustment.

(c) *Application requirements.* When an application is submitted to rezone property to a PD zoning district, the following items will be submitted in addition to other information submitted in accordance with section 22-127, the City's subdivision regulations or other City laws:

(1) Written documents:

a. *Project Narrative:* A statement describing the Planned Development. This statement should include a description of the character of the proposed development as it relates to the development objectives of the City and the City's Comprehensive Plan as well as the applicant's intentions with regard to the future selling or leasing of all or portions of the

Planned Development, such as land areas and dwelling units.

- b. Unified Control: Material which presents firm evidence of unified control of the entire area within the proposed Planned Development in a manner approved by the City Attorney..
 - c. Phasing: A development phasing schedule indicating:
 - 1. The approximate date when construction of the project can be expected to begin.
 - 2. The number of phases in which the project will be built and the approximate date when construction of each phase can be expected to begin and completed.
 - 3. A general description of the buildings and streetscapes including standards for height, building coverage, parking areas, and public improvements proposed for each phase of the development.
 - d. Quantitative data for the following: Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; residential gross densities; total amount of open space; and the total amount of nonresidential acreage (including a separate figure for commercial and industrial acreage).
 - e. A list of any exceptions from the standard zoning ordinance and land development code for any features of the proposed development plan.
 - f. Agreements, provisions and covenants which govern the use, maintenance and continued protection of the Planned Development and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.
- (2) *Site Plan*. A site plan with the following information must be submitted:
- a. The existing site conditions, shorelines, flood plains, unique natural features and forest cover.
 - b. A landscape and irrigation plan per Chapter 22-59 LDC.
 - c. Proposed lot lines and other divisions of land for management, use or allocation purposes.
 - d. The location, size and height of present and proposed buildings and structures.
 - e. The location and size of all areas proposed to be conveyed, dedicated or reserved for streets, parks, playgrounds, public and semi-public buildings and similar uses.
 - f. The existing and proposed vehicular circulation system, including off-street parking and loading areas.
 - g. The pedestrian circulation system, including its interrelationships with the vehicular circulation system, within the development to adjacent streets, showing all curb cuts and sidewalks.
 - h. The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric and gas lines.

- i. Information on land areas adjacent to the proposed Planned development, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.
- j. The proposed buffering treatment of the perimeter of the Planned development, refuse stations, storage areas, or loading areas, including materials and techniques used such as screens, fences and walls.
- k. The location of existing wetlands, proposed preservation and conservation areas.
- l. A statement describing any endangered or threatened species that may be located on the site and potential environmental impacts on flora and fauna.

(d) *Planned Development review procedures.*

(1) Pre-application conference. The pre-application conference is an informal discussion between the applicant and the staff of any department that will be involved with the technical review of the proposed Planned Development. The applicant is encouraged to provide the following information related to the proposed development at the meeting.

- a. Consistency with the adopted Comprehensive Plan
- b. Adequacy of utilities and other public facilities to serve the proposed development.
- c. Relationship with the surrounding neighborhood.
- d. Compliance concerns.

(2) Site Development Plan. Will include all information specified in this section. The procedure for reviewing the development plan is the procedure set forth in Section 22-128, Amendment Procedures, and Section 22-58, Site Plan Review. If the proposed Planned Development also involves the subdividing of land which is regulated by the City, the preliminary plat should be reviewed concurrently with the development plan as specified in Chapter 18. Approval of a development plan or approval of the plan with conditions shall occur concurrently with a change in zoning for the property.

(e) *Adherence to Approved Development Plan.* Building permits for construction shall be issued only if consistent with an approved development plan. No building permit or certificate of occupancy shall be issued for a Planned Development except in conformity with all provisions of the approved final plan, as amended. All buildings and improvements in a particular phase need not be complete before the issuance of a certificate of occupancy for a completed building in that phase unless otherwise required by the final plan as approved.

(f) *Modification of an Approved PD Site plans.* Changes to approved PD site plans are either major modifications or minor modifications. A major modification shall require the approval of the City Commission, while a minor modification may be done administratively by the Planning Manager (or designee)

(1) *Modification review criteria.* Generally, additions, deletions, changes in the use, density, sequence of development or other specifications of an approved PD plan are to be viewed as a major modification. Once a determination has been made that a proposed modification constitutes a major modification, the applicant shall follow the same procedure as a new Planned Development request. An application for a major modification shall be filed in the planning

department. Applications for a major modification of PD plans shall require an updated, revised PD site development plan indicating the effect of the proposed change, a narrative description of the modification and reasons such a change is necessary, and additional information as required by the Planning Manager (or designee) to adequately review the proposed modification.

The following alterations shall be considered a major modification, and reapplication as a new development plan will be required:

- a Increase or decrease in intensity of use. A change of five (5) percent or more of usable floor area, or a change of five (5) percent or more in the number of dwelling units, or a change of five (5) percent or more of outside land area devoted to sales, displays, or demonstrations. In no case shall the intensity or density be increased over the maximum allowed by the Future Land Use Element of the Comprehensive Plan.
 - b Any change in the location of the parking area(s), or a change of ten (10) percent or more in the number of spaces approved.
 - c Structural alterations significantly affecting the basic size and form of the building(s) as shown on the approved plan including increase in building height of more than one story or twelve (12) feet.
 - d Any reduction in the amount of open space by five (5) percent or more, or a substantial change in the location or characteristics of open space uses.
 - e Substantial changes in location or type of pedestrian or vehicular accesses or circulation.
 - f Any change which would increase traffic generation by more than ten (10) percent.
 - g. Any change in land use or an increase in density within five hundred (500) feet of the PD boundaries, or within two hundred (200) feet of any part of the Planned Development which has been constructed or sold to an owner or owners different from the applicant requesting the change.
 - h Any deviation exceeding twelve (12) inches from the setbacks, area, or dimensional standards approved as part of the site development plan.
 - i. A change to the buffering material that negatively impacts the surrounding neighborhood.
 - j. Any change in the design and/or location of the stormwater facility that negatively impacts the surrounding neighborhood.
 - k. Any addition or reduction to the area of a Planned Development.
 - l. Changes proposed to three (3) or more of the criteria that do not meet the threshold individually to be considered a major modification.
 - m. Any change in a condition specifically required by the City Commissioners as part of the Planned Development approval.
- (2) *Minor modification.* Any modification to an approved PD plan which does not constitute a major modification shall be considered a minor modification. Generally, minor variations, extensions, alterations or modifications of proposed uses, buildings/structures or other

improvements which are consistent with the purpose and intent of the approved PD plan are considered minor modifications. Upon determination that the proposed modification is a minor modification, the Planning Manager (or designee) shall render a decision to the applicant within fifteen (15) working days after submission of a completed modification application. Applications for a modification shall include an updated, revised PD site development plan indicating the effect of the proposed change and a narrative description of the modification and the reasons why such a change is necessary.

(3) After a site has been rezoned to the PD district, and after more than fifty percent (50%) of the land in the Planned Development has been developed, amendments to the Planned Development for the developed portions of the property may only be initiated by:

- a The property owner, for an amendment to the Planned Development applicable to only a single lot or building site; or
- b Petition by the owners of more than fifty percent (50%) of the developed property in the PD district for an amendment to the Planned Development applicable to all of the developed portions of the Planned Development; or
- c City Commission, where necessary to preserve the health, safety and welfare of the property owners in the Planned Development.

(g) *Status of Previously Approved PUD (Planned Unit Development zone) Plans.* Any active or completed Planned Development project approved prior to the adoption of this ordinance shall continue to be governed by the approved PUD plan and any agreements, terms and conditions to which the approval may be subject, as long as the project continues to be actively under development. Any time limitations to which the approved PUD plan may be subject shall also continue to apply. However, whenever any application is made to substantially modify (see major modification), the approved PUD plan or to undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the PD district.

(h) *Expiration of an Approved PD Plan.* Any active Planned Development project which has failed to commence by securing a building permit, as stipulated in their PD plans or as part of their PD phasing for a period of two (2) or more years, the plan shall be considered expired. However, in the event that the project is not completed, but has commenced, extensions may be granted for 2-year increments.

If the PD expires, the land will retain the PD zoning designation; however the Site Development Plan approved with the PD rezoning will be null and void. Either the previously approved or a new Site Development Plan can be used to reapply.

(i) *Ability to Change to a PD District from a PUD District.* For a period of one (1) year from the date of adoption of this ordinance, any active or completed Planned Development project within the PUD zoning district will be allowed to voluntarily upgrade to the PD zoning district without cost or additional review, and gain all the rights, terms and conditions of the PD district. Following this one (1) year grace period, any applicant wishing to change to the PD zoning district will need to apply as a new PD applicant.

Sec. 22-40. - Planned ~~unit D~~development zone (PUD).

(a) *Purpose.* ~~The PUD Zone is intended to provide for comprehensive developments incorporating residential uses, a substantial amount of open space and appropriate commercial, public and semi-public uses. It is designed to achieve a desirable environment through application of flexible and diversified land development standards in an overall site plan. It is further intended to promote economics in land development, maintenance, street systems and utility networks.~~ The PD District is intended to provide a process for the evaluation of individually Planned Developments which are not otherwise permitted in the zoning districts established by this Chapter. The PD District is to be a voluntary process commenced by an applicant for such zoning designation. The standards and procedures of this district are intended to promote flexibility of design and permit planned diversification and integration of uses and structures, while at the same time granting the City Commission the absolute authority to establish such limitations and regulations as it deems necessary to protect the public health, safety and general welfare. In so doing, the PD district is designed to:

- (1) Provide for the planning, review and approval of one (1) or a combination of residential, commercial, public and industrial land uses not otherwise allowed under general zoning districts.
- (2) Encourage structures which result in an organized, compatible development within and with surrounding land uses in density and intensity of use.
- (3) Allow flexibility through a more efficient arrangement of structures, utilities, on-site circulation, and ingress and egress than is permitted under conventional zoning and subdivision regulations.
- (4) Encourage the preservation of environmental assets and natural amenities as scenic and functional open-space areas.
- (5) Encourage usable open space by permitting a more concentrated building area than is allowed under conventional zoning and subdivision regulations.
- (6) Encourage innovative site planning and land development concepts in order to create an aesthetically pleasing and functionally desirable living environment while preserving onsite natural elements and cultural resources.
- (7) Promote flexibility and efficiency in site design for more desirable living and working environments.
- (8) Promote development that is adapted to natural features, including wetlands, trees and other vegetation and habitat, and which avoids the disruption of natural drainage patterns.
- (9) Permit site specific requirements based on the unique characteristics of the individual site.
- (10) Permit site specific limitations where necessary to protect public health, safety, or welfare, or for the protection or preservation of lands either internal or external to the Planned Development.

(b) *General standards for approval.* The Planned Development (PD) district is designed to allow an applicant to submit a proposal for consideration, for any use or any mixture of uses. The approval of Planned Development rezoning rests with the City Commission. However, no rezoning or development plan may be approved unless the following conditions are met:

- (1) Comprehensive Plan Consistency. Any residential, commercial, industrial, or public land uses

and structures are permitted in this district, provided the proposed development is shown to be consistent with the goals, objectives and policies of the comprehensive plan, and consistent with the future land use element, and the standards and criteria contained in the following sections, unless a corresponding amendment to the Comprehensive Plan is also adopted.

a *Density.* In no event shall the density granted exceed the maximum gross density permitted under the underlying land use in the Comprehensive Plan.

(2) *Perimeter Setbacks.* Setbacks at the perimeter of the development shall be equal to those of the abutting zoning district(s), except where City Commission finds that alternate perimeter setbacks would be appropriate. Conditions under which alternate perimeter setbacks may be considered include, but are not limited to, the following:

a *Property in the abutting zoning district is located across a major roadway from the PD, and therefore, a reduced setback would have little or no impact on the character of the adjacent property;*

b. *The minimum PD perimeter setback required by this section cannot be achieved due to an exceptional narrowness, shallowness, shape, topographic condition or physical or environmental feature uniquely affecting the subject property.*

(3) *Open space.* Open space shall be provided; it may include vegetated areas, or urban areas unencumbered by an impervious surface. The amount of open space is a product of the design, and should be factored in as part of the overall design, and not merely “leftover”, unused land.

(4) *Applicability to Other LDRs.* All building code, housing code, and other land use regulations of the City of Fort Pierce are applicable to the PD district.

~~Prior to including a tract of land in the PUD Zone or approving a final development plan for a planned unit development, the city commission shall determine that:-~~

~~(1) The planned unit development is an effective and unified treatment of the development possibilities of the project site while remaining consistent with the comprehensive plan, avoiding environmental hazards and making appropriate provisions for the preservation of natural features such as shorelands and wooded cover.-~~

~~(2) The planned unit development will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services in terms of their capacities, operational costs or maintenance costs: Water, sewer, storm drainage, electrical services, fire protection, police protection and schools.-~~

~~(3) A demand exists for the planned unit development at the proposed location and the applicant has the capacity to assure completion of the project.-~~

~~(4) The planned unit development complies with standards referred to in this section, additional zoning ordinance provisions and other city laws.-~~

~~(c) *Potential uses.* The following uses are allowed in a planned unit development if the city commission considers them appropriate for the particular development being proposed, compatible with nearby uses and consistent with the comprehensive plan and if other applicable standards are satisfied:-~~

~~(1) Single-family dwelling, detached or attached.~~

~~(2) Duplexes, triplexes and quadraplexes.~~

~~(3) Multifamily housing developments.~~

~~(4) Adult congregate living facilities and boarding houses.~~

~~(5) Retail sales establishments, except stores selling automobiles, other large motorized vehicles or mobile homes.~~

~~(6) Motels/hotels.~~

~~(7) Personal service establishments.~~

~~(8) Repair service establishments which provide repair services of a minor nature, such as: Radio and television repair services; watch, clock and jewelry repair services; and shoe repair services.~~

~~(9) Finance, insurance and real estate service establishments.~~

~~(10) Business service establishments.~~

~~(11) Communication service establishments.~~

~~(12) Professional service establishments.~~

~~(13) Education service establishments.~~

~~(14) Indoor amusement, entertainment and/or recreation establishments.~~

~~(15) Public and semi-public uses, including outdoor park and recreation facilities.~~

~~(16) Temporary uses meeting the requirements in section 22-65~~

~~(17) Such other uses as the city commission may consider appropriate.~~

~~(d) *Limitations on commercial uses.* No more than thirty (30) per cent of the gross floor area may be used for commercial development in the portion of a planned unit development which the comprehensive plan designates as residential. In an area designated as residential in the comprehensive plan, no building permit for commercial development shall be issued unless at least twenty (20) dwelling units have been constructed in the planned unit development, are in the process of being constructed or will be constructed simultaneously with the commercial development. The following comprehensive plan classifications will be considered to be residential categories: Low density residential (RL), medium density residential (RM) and high density residential (RH).~~

~~(e) *Minimum site size.* Planned unit developments shall be established on parcels of land which are a size suitable for the proposed development and are part of PUD Zone which is at least five (5) acres in size.~~

~~(f) *Residential densities.* Maximum residential densities will not exceed the level which the city commission determines is consistent with the comprehensive plan. Unless it determines that density bonuses should be allowed in accordance with the following criteria, the maximum gross density allowed shall be fifteen (15) units per acre. Density bonuses awarded for the following criteria are cumulative.~~

~~(1) — *Landscaping.* The gross density may be increased up to one unit per acre for landscaping plans which provide for effective use of existing vegetation and/or for approved landscape plans for streetscapes, pedestrian ways, bicycle paths, areas near buildings, open spaces and/or recreation areas. This increased density may only be awarded if the landscaping of the planned unit development will exceed the requirements in section 22-59 for landscaped area by ten (10) per cent, for amount of trees by ten (10) per cent and/or in terms of qualitative characteristics of the landscaping.—~~

~~(2) — *Siting.* The gross density may be increased up to one unit per acre for creative placement of buildings and/or other facilities in terms of visual focal points, use of existing physical features (such as topography), views, sun and wind orientation, the circulation pattern, variation in building setbacks and/or building and facility groupings (such as clustering).—~~

~~(3) — *Design.* The gross density may be increased up to one unit per acre for imaginative design features including architectural styles, harmonious use of building materials, varied use of housing types and/or other design elements of the planned unit development.—~~

~~(g) — *Basic use standards.*—~~

~~(1) — Area, width, depth, yard and lot coverage requirements for lots in a planned unit development shall be determined by the city commission on the basis of relevant characteristics of the use, the rest of the planned unit development and the surrounding area, including those characteristics relating to use compatibility, physical feature constraints and utility and transportation capacities.—~~

~~(2) — No building within the planned unit development shall be located closer than fifteen (15) feet to any street or street right-of-way. No building with residential dwellings shall be closer than twenty (20) feet to any nonaccessory building, except single-family dwellings may be attached or less than twenty (20) feet apart. Additional setback requirements may be imposed by the city commission to provide adequate light, ventilation, privacy and other appropriate features.—~~

~~(h) — *Open spaces.*—~~

~~(1) — In all planned unit developments at least forty (40) per cent of the site, exclusive of aquatic areas, shall be devoted to open space. Of this required open space area, no more than twenty-five (25) per cent may be utilized privately by individual owners or users of the planned unit development. At least seventy-five (75) per cent of the required open space area must be common open space.—~~

~~(2) — No area may be accepted as common open space within a planned unit development unless it meets the following requirements:~~

~~a. — The location, shape, size and character of the common open space is suitable for the development.~~

~~b. — The common open space is for amenity or recreational purposes and the uses authorized are appropriate for the scale and character of the development based on consideration of its size, density, expected population, topography and the number and type of dwellings provided.—~~

~~c. — The common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation should be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.—~~

~~d.—Waterfront access for the public, such as walkways, trails, waterfront seating or landscaped areas, will be provided, whenever possible, when consistent with the scale of the use, surrounding uses, security and proximity to the waterfront.—~~

~~e.—No parking facilities will be included in areas designated as common open space unless the parking facilities are intended to provide access to the common open space area and are not intended to meet the ordinance requirements for other uses. No streets will be designated as common open space.—~~

~~f.—The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the building of residential dwellings in the planned unit development.—~~

~~g.—If buildings or structures are to be constructed in the common open space, the developer will provide a bond or other adequate assurances that the buildings and structures will be completed. The director of the department of planning and development shall release the bond or other assurances when the buildings and structures have been completed according to the development plan.—~~

~~(i)—*Various environmental standards.*—~~

~~(1)—Uses having potential air-polluting sources such as stacks, burning facilities, concentrations of motor vehicles and dust-generating processes shall be located and designed to provide adequate separation of these sources from other development and especially residential neighborhoods, institutional uses and outdoor recreation areas. Any adverse air-quality impacts of the use will be reduced to the extent practical.—~~

~~(2)—The development plan, to the extent practical, will attempt to follow the principle that the water falling on a given site should be absorbed to the extent that after development the quantity and rate of water leaving the site would not be significantly different than if the site had remained undeveloped. Techniques that capitalize on and are consistent with natural resources and processes will be used whenever possible. In part, the intent of the plan should be to minimize the adverse cumulative effects of development in an area on drainage.—~~

~~(3)—The development plan shall include provisions needed to control water and wind erosion during and after construction associated with the development. Runoff from impervious surfaces or other potential polluting sources in developments with three (3) or more acres of impervious area should be directed to retention areas or through vegetated areas as needed to allow sedimentation and filtration of contaminants to occur before runoff enters canals, rivers or wetland areas. Any adverse water quality impacts of the use will be reduced to the extent practical.—~~

~~(j)—*Transportation.*—~~

~~(1)—A suitable site layout will be used for all street and on-site drives; parking, loading and unloading areas; refuse collection and disposal points; sidewalks; bike paths; and other transportation facilities. Suitability, in part, shall be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.—~~

~~(2)—Principal vehicular access points shall be designed to permit smooth traffic flow and to minimize hazards to vehicular and pedestrian traffic. Minor streets within a planned unit development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.—~~

~~(3) Streets in a planned unit development may be dedicated to public use or may be retained in private ownership, except the city commission may require arterial and collector streets to be dedicated to the public. When considered appropriate by the city commission, city requirements concerning rights of way and street pavement widths may be reduced and those requiring curbs and gutters or sidewalks may be waived, notwithstanding provisions to the contrary in this Code of ordinances.~~

~~(4) All uses shall comply with access, parking and loading standards in sections 22-60 and 22-61, except additional requirements may be specified by the city commission when it considers them appropriate.~~

~~(k) *Compatibility with adjacent development.* If topographical or other barriers near the perimeter of the planned unit development do not provide reasonable privacy for existing or potential uses adjacent to the development, the city commission shall require buildings in the planned unit development to be set back an adequate distance from the perimeter of the planned unit development or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls and/or berms. In no case shall buildings in the planned unit development be closer than twenty-five (25) feet to a lot in an E-1, R-1, R-2, R-3, R-4 or R-5 Zone.~~

~~(l) *Landscaping.* The planned unit development shall comply with the provisions of a landscape plan approved by the city commission. This plan must at a minimum be consistent with landscaping requirements in section 22-59.~~

~~(m) *Unified control.* All land intended to be included in the planned unit development shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations.~~

~~(n) *Maintenance of common areas.* Common open space, streets and any area or facility designated by the city commission as a shared area will comply with the following provisions:~~

~~(1) The property will be conveyed under one of the following options:~~

~~a. To a public agency which agrees to maintain the property and buildings or structures placed on it; or~~

~~b. To association(s) of owners and/or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions that are acceptable to the city commission as providing for the continuing care of the property.~~

~~(2) The property may not be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the property, and all rights to enforce these covenants against any use permitted are expressly reserved.~~

~~(3) If the property is not conveyed to a public agency, the covenants and restrictions that govern the association of owners and/or tenants will at least include the following provisions:~~

~~a. Membership must be mandatory for each home buyer or tenant and each successive buyer or tenant.~~

~~b. The association must be responsible for liability insurance, local taxes and the maintenance of property.~~

~~c. Owners and tenants must pay their pro rata share of the cost.~~

~~d. The association must be able to adjust assessments to meet changing needs.~~

~~e. The city must be authorized to enforce these and other provisions governing the use, improvement and maintenance of the property.~~

~~(4) If the property is not conveyed to a public agency then, in addition to those requirements set forth hereinabove, there shall be delivered to the building official at or before the time the first building permit is obtained an instrument in recordable form containing:~~

~~a. A legal description of the property upon which the dwelling units are to be constructed;~~

~~b. A statement of the total area contained within such description;~~

~~c. A statement of the number of existing or proposed units situated on the subject property;~~

~~d. A statement of the number of dwelling units for which the application is made;~~

~~e. A restriction prohibiting any further development or construction beyond what is set forth in the instrument.~~

~~The building official shall thereafter issue permits in accordance with what is set forth in the aforesaid instrument provided all other requirements of this chapter are met and thereafter no further permits shall be issued for any additional units on the tract described. The instrument shall be recorded to place all persons on notice of its contents and limitations upon further building.~~

~~(5e) Utility Easements. Easements necessary for the orderly extension and maintenance of public utilities and/or other special needs may be required as a condition of approval.~~

~~(6) Phasing. When provisions for phasing are included in the development plan, each phase of development must be so planned and so related to previous development, surrounding properties, and the available public facilities and services, that failure to proceed with subsequent phases will not adversely impact drainage, utilities, parking or the traffic flow of the completed phases.~~

~~(7p) Other standards. All Planned unit-Developments will comply with regulations affecting signs referred to in section 22-55 and applicable portions of the City's regulations governing subdivisions except that in case of conflict, the city commission shall determine the requirement for the PUD.~~

~~(8) Additional requirements. The city commission City Commission may also establish additional requirements which it considers necessary to assure that a Planned unit-Development conforms to the intent of this section.~~

~~(9) Variances are Not Necessary. The specific development standards of the PD district are contained in the approved development plan for each Planned Development which normally takes into account those matters which might otherwise be the subject of variance review by the Board of Adjustment.~~

~~(c) Special Application requirements. When an application is submitted to include rezone property in to a PUD zoning district~~e~~, the following items will be submitted, in addition to other information submitted in accordance with section 22-127, the City's subdivision regulations or other City laws:~~

(1) Written documents:

a. Project Narrative: A statement ~~of planning objectives to be achieved by~~describing the ~~P~~planned ~~unit~~Ddevelopment ~~through the particular approach proposed by the applicant.~~ This statement should include a description of the character of the proposed development as it relates to the development objectives of the City and the City's Comprehensive Plan as well as the applicant's intentions with regard to the future selling or leasing of all or portions of the Planned Development, such as land areas and dwelling units.

b. Unified Control: Material which presents firm evidence of unified control of the entire area within the proposed ~~P~~planned ~~unit~~Ddevelopment in a manner approved by the City Attorney, ~~including a certificate of apparent ownership and encumbrance with the opinion of counsel representing the applicant establishing that the applicant has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.~~

~~c. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned unit development, such as land areas and dwelling units.~~

cd. Phasing: A development phasing schedule indicating:

1. The approximate date when construction of the project can be expected to begin.
2. The stages~~number of phases~~ in which the project will be built and the approximate date when construction of each stage~~phase~~ can be expected to begin and completed.

~~3. The anticipated rate of development.~~

~~4. The approximate date when each stage in the development will be completed.~~

~~5. The area, location and degree of development of common open space that will be provided at each stage.~~ A general description of the buildings and streetscapes including standards for height, building coverage, parking areas, and public improvements proposed for each phase of the development.

de. Quantitative data for the following: Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; ~~approximate~~ residential gross densities; total amount of open space ~~(including separate figures for common open space and usable open spaces);~~ and the total amount of nonresidential acreage (including a separate figure for commercial and industrial acreage).

e. A list of any exceptions from the standard zoning ordinance and land development code for any features of the proposed development plan.

~~f. A statement indicating the justification for a gross density in excess of twelve (12) units per acre if such a density is being proposed.~~

fg. Agreements, provisions and covenants which govern the use, maintenance and continued protection of the ~~P~~planned ~~unit~~Ddevelopment and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.

(2) ~~Site P~~plan ~~and supporting maps.~~ Maps A site plan with the following ~~minimum~~ information must be submitted:

a. The existing site conditions, ~~including contours at one foot intervals,~~ shorelines, flood plains, unique natural features and forest cover.

~~b. A grading plan for the site showing future contours for locations where the existing grade is to be changed by more than two (2) feet.~~

~~bc. A general landscape and irrigation plan per Chapter 22-59 LDC. for the planned unit development.~~

~~cd. Proposed lot lines and other divisions of land for management, use or allocation purposes.~~

~~de. The approximate location, size and height of present and proposed buildings and structures.~~

~~fe. The location and size of all areas proposed to be conveyed, dedicated or reserved for streets, parks, playgrounds, public and semi-public buildings and similar uses.~~

~~gf. The existing and proposed vehicular circulation system, including off-street parking and loading areas.~~

~~hg. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, within the development to adjacent streets, showing all curb cuts and sidewalks, indicating proposed treatments of points of conflict.~~

~~ih. The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric and gas lines.~~

~~ji. Enough information on land areas adjacent to the proposed Planned unit development to indicate the relationship between the proposed development and adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.~~

~~kj. The proposed buffering treatment of the perimeter of the planned Planned unit development, refuse stations, storage areas, or loading areas, including materials and techniques used such as screens, fences and walls.~~

~~k. The location of existing wetlands, proposed preservation and conservation areas.~~

~~l. A statement describing any endangered or threatened species that may be located on the site and potential environmental impacts on flora and fauna.~~

~~(d) Special Planned unit Development review procedures.~~

~~(1) Planned unit developments will be reviewed in at least three (3) phases—a pre-application conference, a preliminary development plan phase and a final development plan phase. The pre-application conference is an will involve a minimum of one informal discussion between the applicant and the staff of the any department that will be involved with the technical review of planning and development on the proposed Planned unit Development. The applicant is encouraged to provide the following information related to the proposed development at the meeting.~~

~~a. Consistency with the adopted Comprehensive Plan~~

b. Adequacy of utilities and other public facilities to serve the proposed development.

c. Relationship with the surrounding neighborhood.

d. Compliance concerns.

~~(2) At the request of the applicant, an optional phase, a concept plan phase, will take place. For this phase, a map showing the general layout of uses in the proposed planned unit development will be submitted along with written material mentioned in this section in (q)(1)(a), (q)(1)(c), (q)(1)(d) and (q)(1)(e). A public hearing will be held by the city planning board on the proposal and it will approve, approve with conditions or disapprove the concept plan.~~

~~(23) The preliminary Site Ddevelopment Planplan. Wwill include all information specified in subsection (p) of this section. The procedure for reviewing the preliminary development plan is the procedure set forth in Ssection 22-128, Amendment Procedures for amending this chapter, and Section 22-58, Site Plan Review. If the proposed Pplanned unit Ddevelopment also involves the subdividing of land which is regulated by the eCity, the preliminary plat should be reviewed concurrently with the preliminary development plan as specified in Chapter 18. Approval of a preliminary development plan or approval of the plan with conditions shall occur concurrently with a change in zoning for the property. If the city planning board approved the concept plan or approved it with conditions, the board will not change its earlier opinion unless it determines that it is appropriate due to new information or due to differences between the concept plan and preliminary development plan.~~

~~(4) Within a year of the date of approval of a preliminary development plan or approval of the plan with conditions, the applicant shall file with the department of planning and development a final development plan containing in final form the information required in the preliminary plan. This plan may be for the entire development or, when submission in stages has been authorized, for the first stage of the development. If the planned unit development involves the subdividing of land which is regulated by the city, the final plat should be reviewed concurrently with the final development plan.~~

~~(5) The staff of the department of planning and development shall have a maximum of thirty-five (35) days from the submission of a complete final development plan to review the plan and prepare comments concerning the plan. Prior to acting on the final development plan, the city commission shall hold a public hearing in accordance with section 22-143. The city commission shall approve, approve with conditions or disapprove the final development plan within twenty (20) days of the public hearing, except the city commission with good cause demonstrated may allow an extension of time.~~

~~(6) If the city commission finds evidence of a significant deviation from the preliminary development plan, the city commission shall advise the applicant to submit an application for an amendment to the preliminary development plan. An amendment shall be reviewed using the same procedure as was used for the preliminary development plan, except that this chapter will not need to be amended. If no significant deviation from the preliminary development plan is found, the city commission will approve the portions of the planned unit development in the final plan.~~

~~(7) If an amended preliminary development plan is not submitted within seventy five (75) days of the city commission decision to require such an amendment, or if the amended preliminary development plan is not approved or approved with conditions, the city commission shall initiate proceedings for rezoning all of the property in the planned unit development.~~

~~(es) Adherence to A-approved final Ddevelopment Pplan. Building permits for construction shall be issued only if consistent with an approved final development plan. No building permit or certificate of occupancy shall be issued for a Planned Development except in conformity with all provisions of the~~

approved final plan, as amended. All buildings and improvements in a particular phase need not be complete before the issuance of a certificate of occupancy for a completed building in that phase unless otherwise required by the final plan as approved.

~~(1) Minor changes not altering the intent and purpose of the approved final development plan may be approved by the director of planning and development after such departmental comment as he deems appropriate. The director shall also advise the city commission of his administrative determination at the earliest practicable opportunity and such determination shall become effective unless the city commission thereupon finds that the proposed change is substantial in nature and advises the applicant to apply for an amendment of the approved development plan.~~

~~(2) Substantial changes in requested uses, density, phasing or other specifications of the approved development plan must be approved by the city commission after it has held a public hearing and after review of the proposed changes by the city planning board.~~

~~(3) The amendment of an approved development shall be in the manner provided for adoption of the development plan.~~

(f) *Modification of an Approved PD Site plans.* Changes to approved PD site plans are either major modifications or minor modifications. A major modification shall require the approval of the City Commission, while a minor modification may be done administratively by the Planning Manager (or designee)

(1) *Modification review criteria.* Generally, additions, deletions, changes in the use, density, sequence of development or other specifications of an approved PD plan are to be viewed as a major modification. Once a determination has been made that a proposed modification constitutes a major modification, the applicant shall follow the same procedure as a new Planned Development request. An application for a major modification shall be filed in the planning department. Applications for a major modification of PD plans shall require an updated, revised PD site development plan indicating the effect of the proposed change, a narrative description of the modification and reasons such a change is necessary, and additional information as required by the Planning Manager (or designee) to adequately review the proposed modification.

The following alterations shall be considered a major modification, and reapplication as a new development plan will be required:

a Increase or decrease in intensity of use. A change of five (5) percent or more of usable floor area, or a change of five (5) percent or more in the number of dwelling units, or a change of five (5) percent or more of outside land area devoted to sales, displays, or demonstrations. In no case shall the intensity or density be increased over the maximum allowed by the Future Land Use Element of the Comprehensive Plan.

b Any change in the location of the parking area(s), or a change of ten (10) percent or more in the number of spaces approved.

c Structural alterations significantly affecting the basic size and form of the building(s) as shown on the approved plan including increase in building height of more than one story or twelve (12) feet.

d Any reduction in the amount of open space by five (5) percent or more, or a substantial change in the location or characteristics of open space uses.

e Substantial changes in location or type of pedestrian or vehicular accesses or

circulation.

f. Any change which would increase traffic generation by more than ten (10) percent.

g. Any change in land use or an increase in density within five hundred (500) feet of the PD boundaries, or within two hundred (200) feet of any part of the Planned Development which has been constructed or sold to an owner or owners different from the applicant requesting the change.

h. Any deviation exceeding twelve (12) inches from the setbacks, area, or dimensional standards approved as part of the site development plan.

i. A change to the buffering material that negatively impacts the surrounding neighborhood.

j. Any change in the design and/or location of the stormwater facility that negatively impacts the surrounding neighborhood.

k. Any addition or reduction to the area of a Planned Development.

l. Changes proposed to three (3) or more of the criteria that do not meet the threshold individually to be considered a major modification.

m. Any change in a condition specifically required by the City Commissioners as part of the Planned Development approval.

(2) *Minor modification.* Any modification to an approved PD plan which does not constitute a major modification shall be considered a minor modification. Generally, minor variations, extensions, alterations or modifications of proposed uses, buildings/structures or other improvements which are consistent with the purpose and intent of the approved PD plan are considered minor modifications. Upon determination that the proposed modification is a minor modification, the Planning Manager (or designee) shall render a decision to the applicant within fifteen (15) working days after submission of a completed modification application. Applications for a modification shall include an updated, revised PD site development plan indicating the effect of the proposed change and a narrative description of the modification and the reasons why such a change is necessary.

(3) After a site has been rezoned to the PD district, and after more than fifty percent (50%) of the land in the Planned Development has been developed, amendments to the Planned Development for the developed portions of the property may only be initiated by:

a. The property owner, for an amendment to the Planned Development applicable to only a single lot or building site; or

b. Petition by the owners of more than fifty percent (50%) of the developed property in the PD district for an amendment to the Planned Development applicable to all of the developed portions of the Planned Development; or

c. City Commission, where necessary to preserve the health, safety and welfare of the property owners in the Planned Development.

(g) *Status of Previously Approved PUD (Planned Unit Development zone) Plans.* Any active or completed Planned Development project approved prior to the adoption of this ordinance shall continue to be governed by the approved PUD plan and any agreements, terms and conditions to which the

approval may be subject, as long as the project continues to be actively under development. Any time limitations to which the approved PUD plan may be subject shall also continue to apply. However, whenever any application is made to substantially modify (see major modification), the approved PUD plan or to undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the PD district.

~~(t) *Determining the residential density of existing developments.* Developments existing as of January 1, 1981, which request rezoning to the Planned Unit Development District prior to July 1, 1982, may receive credit for property previously owned by the developer for the purpose of determining residential density provided that:~~

~~(1) The property not owned by the developer is an integral part of the development;~~

~~(2) The property not owned by the developer is contiguous to the property owned by the developer; and~~

~~(3) The overall density of the development will not exceed the maximum established by the application of section 22-40(f).~~

(h) *Expiration of an Approved PD Plan.* Any active Planned Development project which has failed to commence by securing a building permit, as stipulated in their PD plans or as part of their PD phasing for a period of two (2) or more years, the plan shall be considered expired. However, in the event that the project is not completed, but has commenced, extensions may be granted for 2-year increments.

If the PD expires, the land will retain the PD zoning designation; however the Site Development Plan approved with the PD rezoning will be null and void. Either the previously approved or a new Site Development Plan can be used to reapply.

(i) *Ability to Change to a PD District from a PUD District.* For a period of one (1) year from the date of adoption of this ordinance, any active or completed Planned Development project within the PUD zoning district will be allowed to voluntarily upgrade to the PD zoning district without cost or additional review, and gain all the rights, terms and conditions of the PD district. Following this one (1) year grace period, any applicant wishing to change to the PD zoning district will need to apply as a new PD applicant.

~~(Ord. No. H-186, § 30-40, 6-15-81; Ord. No. K-258, § 2, 1-20-04)~~

Sec. 22-40. Planned unit development zone (PUD).

- (a) *Purpose.* The PUD zone is intended to provide for comprehensive developments incorporating residential uses, a substantial amount of open space and appropriate commercial, public and semi-public uses. It is designed to achieve a desirable environment through application of flexible and diversified land development standards in an overall site plan. It is further intended to promote economics in land development, maintenance, street systems and utility networks.
- (b) *General standards for approval.* Prior to including a tract of land in the PUD zone or approving a final development plan for a planned unit development, the city commission shall determine that:
- (1) The planned unit development is an effective and unified treatment of the development possibilities of the project site while remaining consistent with the comprehensive plan, avoiding environmental hazards and making appropriate provisions for the preservation of natural features such as shorelands and wooded cover.
 - (2) The planned unit development will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services in terms of their capacities, operational costs or maintenance costs: Water, sewer, storm drainage, electrical services, fire protection, police protection and schools.
 - (3) A demand exists for the planned unit development at the proposed location and the applicant has the capacity to assure completion of the project.
 - (4) The planned unit development complies with standards referred to in this section, additional zoning ordinance provisions and other city laws.
- (c) *Potential uses.* The following uses are allowed in a planned unit development if the city commission considers them appropriate for the particular development being proposed, compatible with nearby uses and consistent with the comprehensive plan and if other applicable standards are satisfied:
- (1) Single-family dwelling, detached or attached.
 - (2) Duplexes, triplexes and quadraplexes.
 - (3) Multifamily housing developments.
 - (4) Adult congregate living facilities and boarding houses.
 - (5) Retail sales establishments, except stores selling automobiles, other large motorized vehicles or mobile homes.
 - (6) Motels/hotels.
 - (7) Personal service establishments.
 - (8) Repair service establishments which provide repair services of a minor nature, such as: Radio and television repair services; watch, clock and jewelry repair services; and shoe repair services.
 - (9) Finance, insurance and real estate service establishments.
 - (10) Business service establishments.
 - (11) Communication service establishments.
 - (12) Professional service establishments.
 - (13) Education service establishments.
 - (14) Indoor amusement, entertainment and/or recreation establishments.
 - (15) Public and semi-public uses, including outdoor park and recreation facilities.
 - (16) Temporary uses meeting the requirements in section 22-65.
 - (17) Such other uses as the city commission may consider appropriate.
- (d) *Limitations on commercial uses.* No more than thirty (30) per cent of the gross floor area may be used for commercial development in the portion of a planned unit development which the comprehensive plan designates as residential. In an area designated as residential in the comprehensive plan, no building permit for commercial development shall be issued unless at least twenty (20) dwelling units have been

constructed in the planned unit development, are in the process of being constructed or will be constructed simultaneously with the commercial development. The following comprehensive plan classifications will be considered to be residential categories: Low density residential (RL), medium density residential (RM) and high density residential (RH).

- (e) *Minimum site size.* Planned unit developments shall be established on parcels of land which are a size suitable for the proposed development and are part of PUD zone which is at least five (5) acres in size.
- (f) *Residential densities.* Maximum residential densities will not exceed the level which the city commission determines is consistent with the comprehensive plan. Unless it determines that density bonuses should be allowed in accordance with the following criteria, the maximum gross density allowed shall be fifteen (15) units per acre. Density bonuses awarded for the following criteria are cumulative.
 - (1) *Landscaping.* The gross density may be increased up to one unit per acre for landscaping plans which provide for effective use of existing vegetation and/or for approved landscape plans for streetscapes, pedestrian ways, bicycle paths, areas near buildings, open spaces and/or recreation areas. This increased density may only be awarded if the landscaping of the planned unit development will exceed the requirements in section 22-59 for landscaped area by ten (10) per cent, for amount of trees by ten (10) per cent and/or in terms of qualitative characteristics of the landscaping.
 - (2) *Siting.* The gross density may be increased up to one unit per acre for creative placement of buildings and/or other facilities in terms of visual focal points, use of existing physical features (such as topography), views, sun and wind orientation, the circulation pattern, variation in building setbacks and/or building and facility groupings (such as clustering).
 - (3) *Design.* The gross density may be increased up to one unit per acre for imaginative design features including architectural styles, harmonious use of building materials, varied use of housing types and/or other design elements of the planned unit development.
- (g) *Basic use standards.*
 - (1) Area, width, depth, yard and lot coverage requirements for lots in a planned unit development shall be determined by the city commission on the basis of relevant characteristics of the use, the rest of the planned unit development and the surrounding area, including those characteristics relating to use compatibility, physical feature constraints and utility and transportation capacities.
 - (2) No building within the planned unit development shall be located closer than fifteen (15) feet to any street or street right-of-way. No building with residential dwellings shall be closer than twenty (20) feet to any nonaccessory building, except single-family dwellings may be attached or less than twenty (20) feet apart. Additional setback requirements may be imposed by the city commission to provide adequate light, ventilation, privacy and other appropriate features.
- (h) *Open spaces.*
 - (1) In all planned unit developments at least forty (40) per cent of the site, exclusive of aquatic areas, shall be devoted to open space. Of this required open space area, no more than twenty-five (25) per cent may be utilized privately by individual owners or users of the planned unit development. At least seventy-five (75) per cent of the required open space area must be common open space.
 - (2) No area may be accepted as common open space within a planned unit development unless it meets the following requirements:
 - a. The location, shape, size and character of the common open space is suitable for the development.
 - b. The common open space is for amenity or recreational purposes and the uses authorized are appropriate for the scale and character of the development based on consideration of its size, density, expected population, topography and the number and type of dwellings provided.
 - c. The common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation should be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.

- d. Waterfront access for the public, such as walkways, trails, waterfront seating or landscaped areas, will be provided, whenever possible, when consistent with the scale of the use, surrounding uses, security and proximity to the waterfront.
 - e. No parking facilities will be included in areas designated as common open space unless the parking facilities are intended to provide access to the common open space area and are not intended to meet the ordinance requirements for other uses. No streets will be designated as common open space.
 - f. The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the building of residential dwellings in the planned unit development.
 - g. If buildings or structures are to be constructed in the common open space, the developer will provide a bond or other adequate assurances that the buildings and structures will be completed. The director of the department of planning and development shall release the bond or other assurances when the buildings and structures have been completed according to the development plan.
- (i) *Various environmental standards.*
- (1) Uses having potential air-polluting sources such as stacks, burning facilities, concentrations of motor vehicles and dust-generating processes shall be located and designed to provide adequate separation of these sources from other development and especially residential neighborhoods, institutional uses and outdoor recreation areas. Any adverse air-quality impacts of the use will be reduced to the extent practical.
 - (2) The development plan, to the extent practical, will attempt to follow the principle that the water falling on a given site should be absorbed to the extent that after development the quantity and rate of water leaving the site would not be significantly different than if the site had remained undeveloped. Techniques that capitalize on and are consistent with natural resources and processes will be used whenever possible. In part, the intent of the plan should be to minimize the adverse cumulative effects of development in an area on drainage.
 - (3) The development plan shall include provisions needed to control water and wind erosion during and after construction associated with the development. Runoff from impervious surfaces or other potential polluting sources in developments with three (3) or more acres of impervious area should be directed to retention areas or through vegetated areas as needed to allow sedimentation and filtration of contaminants to occur before runoff enters canals, rivers or wetland areas. Any adverse water quality impacts of the use will be reduced to the extent practical.
- (j) *Transportation.*
- (1) A suitable site layout will be used for all street and on-site drives; parking, loading and unloading areas; refuse collection and disposal points; sidewalks; bike paths; and other transportation facilities. Suitability, in part, shall be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.
 - (2) Principal vehicular access points shall be designed to permit smooth traffic flow and to minimize hazards to vehicular and pedestrian traffic. Minor streets within a planned unit development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.
 - (3) Streets in a planned unit development may be dedicated to public use or may be retained in private ownership, except the city commission may require arterial and collector streets to be dedicated to the public. When considered appropriate by the city commission, city requirements concerning rights-of-way and street pavement widths may be reduced and those requiring curbs and gutters may be waived, notwithstanding provisions to the contrary in this Code of Ordinances.
 - (4) All uses shall comply with access, parking and loading standards in sections 22-60 and 22-61, except additional requirements may be specified by the city commission when it considers them appropriate.

- (k) *Compatibility with adjacent development.* If topographical or other barriers near the perimeter of the planned unit development do not provide reasonable privacy for existing or potential uses adjacent to the development, the city commission shall require buildings in the planned unit development to be set back an adequate distance from the perimeter of the planned unit development or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls and/or berms. In no case shall buildings in the planned unit development be closer than twenty-five (25) feet to a lot in an E-1, R-1, R-2, R-3, R-4 or R-5 zone.
- (l) *Landscaping.* The planned unit development shall comply with the provisions of a landscape plan approved by the city commission. This plan must at a minimum be consistent with landscaping requirements in section 22-59.
- (m) *Unified control.* All land intended to be included in the planned unit development shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations.
- (n) *Maintenance of common areas.* Common open space, streets and any area or facility designated by the city commission as a shared area will comply with the following provisions:
- (1) The property will be conveyed under one of the following options:
 - a. To a public agency which agrees to maintain the property and buildings or structures placed on it; or
 - b. To association(s) of owners and/or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions that are acceptable to the city commission as providing for the continuing care of the property.
 - (2) The property may not be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the property, and all rights to enforce these covenants against any use permitted are expressly reserved.
 - (3) If the property is not conveyed to a public agency, the covenants and restrictions that govern the association of owners and/or tenants will at least include the following provisions:
 - a. Membership must be mandatory for each home buyer or tenant and each successive buyer or tenant.
 - b. The association must be responsible for liability insurance, local taxes and the maintenance of property.
 - c. Owners and tenants must pay their pro rata share of the cost.
 - d. The association must be able to adjust assessments to meet changing needs.
 - e. The city must be authorized to enforce these and other provisions governing the use, improvement and maintenance of the property.
 - (4) If the property is not conveyed to a public agency then, in addition to those requirements set forth hereinabove, there shall be delivered to the building official at or before the time the first building permit is obtained an instrument in recordable form containing:
 - a. A legal description of the property upon which the dwelling units are to be constructed;
 - b. A statement of the total area contained within such description;
 - c. A statement of the number of existing or proposed units situated on the subject property;
 - d. A statement of the number of dwelling units for which the application is made;
 - e. A restriction prohibiting any further development or construction beyond what is set forth in the instrument.

The building official shall thereafter issue permits in accordance with what is set forth in the aforesaid instrument provided all other requirements of this chapter are met and thereafter no further permits shall be issued for any additional units on the tract described. The instrument shall be recorded to place all persons on notice of its contents and limitations upon further building.

(o)

Utility easements. Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.

- (p) *Other standards.* All planned unit developments will comply with regulations affecting signs referred to in section 22-55 and applicable portions of the city's regulations governing subdivisions except that in case of conflict the city commission shall determine the requirement for the PUD. The city commission may also establish additional requirements which it considers necessary to assure that a planned unit development conforms to the intent of this section.
- (q) *Special application requirements.* When an application is submitted to include property in a PUD zone, the following items will be submitted, in addition to other information submitted in accordance with section 22-127, the city's subdivision regulations or other city laws:
- (1) Written documents:
 - a. A statement of planning objectives to be achieved by the planned unit development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development.
 - b. Material which presents firm evidence of unified control of the entire area within the proposed planned unit development, including a certificate of apparent ownership and encumbrance with the opinion of counsel representing the applicant establishing that the applicant has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.
 - c. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned unit development, such as land areas and dwelling units.
 - d. A development schedule indicating:
 1. The approximate date when construction of the project can be expected to begin.
 2. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 3. The anticipated rate of development.
 4. The approximate date when each stage in the development will be completed.
 5. The area, location and degree of development of common open space that will be provided at each stage.
 - e. Quantitative data for the following: Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; approximate residential gross densities; total amount of open space (including separate figures for common open space and usable open spaces); and the total amount of nonresidential acreage (including a separate figure for commercial and industrial acreage).
 - f. A statement indicating the justification for a gross density in excess of twelve (12) units per acre if such a density is being proposed.
 - g. Agreements, provisions and covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.
 - (2) *Site plan and supporting maps.* Maps with the following minimum information must be submitted:
 - a. The existing site conditions, including contours at one foot intervals, shorelines, flood plains, unique natural features and forest cover.
 - b. A grading plan for the site showing future contours for locations where the existing grade is to be changed by more than two (2) feet.
 - c. A general landscape plan for the planned unit development.
 - d. Proposed lot lines and other divisions of land for management, use or allocation purposes.
 - e. The approximate location of present and proposed buildings and structures.
 - f. The location and size of all areas proposed to be conveyed, dedicated or reserved for streets, parks, playgrounds, public and semi-public buildings and similar uses.

- g. The existing and proposed vehicular circulation system, including off-street parking and loading areas.
 - h. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatments of points of conflict.
 - i. The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric and gas lines.
 - j. Enough information on land areas adjacent to the proposed planned unit development to indicate the relationship between the proposed development and adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.
 - k. The proposed treatment of the perimeter of the planned unit development, including materials and techniques used such as screens, fences and walls.
- (r) *Special planned unit development review procedures.*
- (1) Planned unit developments will be reviewed in at least three (3) phases—a preapplication conference, a preliminary development plan phase and a final development plan phase. The preapplication conference will involve a minimum of one informal discussion between the applicant and staff of the department of planning and development on the proposed planned unit development.
 - (2) At the request of the applicant, an optional phase, a concept plan phase, will take place. For this phase, a map showing the general layout of uses in the proposed planned unit development will be submitted along with written material mentioned in this section in (q)(1)(a), (q)(1)(c), (q)(1)(d) and (q)(1)(e). A public hearing will be held by the city planning board on the proposal and it will approve, approve with conditions or disapprove the concept plan.
 - (3) The preliminary development plan will include information specified in subsection (p) of this section. The procedure for reviewing the preliminary development plan is the procedure set forth in section 22-128 for amending this chapter. If the proposed planned unit development involves the subdividing of land which is regulated by the city, the preliminary plat should be reviewed concurrently with the preliminary development plan. Approval of a preliminary development plan or approval of the plan with conditions shall occur concurrently with a change in zoning for the property. If the city planning board approved the concept plan or approved it with conditions, the board will not change its earlier opinion unless it determines that it is appropriate due to new information or due to differences between the concept plan and preliminary development plan.
 - (4) Within a year of the date of approval of a preliminary development plan or approval of the plan with conditions, the applicant shall file with the department of planning and development a final development plan containing in final form the information required in the preliminary plan. This plan may be for the entire development or, when submission in stages has been authorized, for the first stage of the development. If the planned unit development involves the subdividing of land which is regulated by the city, the final plat should be reviewed concurrently with the final development plan.
 - (5) The staff of the department of planning and development shall have a maximum of thirty-five (35) days from the submission of a complete final development plan to review the plan and prepare comments concerning the plan. Prior to acting on the final development plan, the city commission shall hold a public hearing in accordance with section 22-143. The city commission shall approve, approve with conditions or disapprove the final development plan within twenty (20) days of the public hearing, except the city commission with good cause demonstrated may allow an extension of time.
 - (6) If the city commission finds evidence of a significant deviation from the preliminary development plan, the city commission shall advise the applicant to submit an application for an amendment to the preliminary development plan. An amendment shall be reviewed using the same procedure as was used for the preliminary development plan, except that this chapter will not need to be amended. If no significant deviation from the preliminary development plan is found, the city commission will approve the portions of the planned unit development in the final plan.

- (7) If an amended preliminary development plan is not submitted within seventy-five (75) days of the city commission decision to require such an amendment, or if the amended preliminary development plan is not approved or approved with conditions, the city commission shall initiate proceedings for rezoning all of the property in the planned unit development.
- (s) *Adherence to approved final development plan.* Building permits for construction shall be issued only if consistent with an approved final development plan.
 - (1) Minor changes not altering the intent and purpose of the approved final development plan may be approved by the director of planning and development after such departmental comment as he deems appropriate. The director shall also advise the city commission of his administrative determination at the earliest practicable opportunity and such determination shall become effective unless the city commission thereupon finds that the proposed change is substantial in nature and advises the applicant to apply for an amendment of the approved development plan.
 - (2) Substantial changes in requested uses, density, phasing or other specifications of the approved development plan must be approved by the city commission after it has held a public hearing and after review of the proposed changes by the city planning board.
 - (3) The amendment of an approved development shall be in the manner provided for adoption of the development plan.
- (t) *Determining the residential density of existing developments.* Developments existing as of January 1, 1981, which request rezoning to the Planned Unit Development District prior to July 1, 1982, may receive credit for property previously owned by the developer for the purpose of determining residential density provided that:
 - (1) The property not owned by the developer is an integral part of the development;
 - (2) The property not owned by the developer is contiguous to the property owned by the developer; and
 - (3) The overall density of the development will not exceed the maximum established by the application of section 22-40(f).

(Ord. No. H-186, § 30-40, 6-15-81; Ord. No. K-258, § 2, 1-20-04; Ord. No. L-260, § 2, 6-18-12)

