

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)

