

CHAPTER 7

PLANNED UNIT DEVELOPMENT DISTRICT

Section 7.01 Intent.

- (A) The Planned Unit Development (PUD) District is designed and intended to: encourage creativity and innovation in the design of developments; provide for more efficient use of land; permit special consideration of property with outstanding natural or topographical features; encourage imaginative uses of *open space*; further the purposes of the Comprehensive Plan; and, provide for any individual land *use* not otherwise specified elsewhere in this Ordinance.
- (B) The PUD District is not intended for the development of residential subdivisions or other developments which are provided for as a matter of right within any district of this Ordinance.

Section 7.02 Permitted Uses and Development Standards.

(A) *Permitted Uses.*

- (1) *Primary uses* in the PUD District shall be any *use* or range of *uses* specified in the PUD District Ordinance establishing such District, either in text form or as noted in the preliminary plan filed with the petition for zone map change, or any combination thereof. *Primary uses*, by way of example, may include any residential, commercial or industrial land *use*, or any individual land *use* or combination of land uses deemed appropriate for the real estate.
- (2) *Accessory uses, home occupations or temporary uses*, unless otherwise specified in the petition for zone map change to the PUD District and incorporated into the PUD District Ordinance establishing such District, shall be permitted in a manner customarily associated with the primary *use* specified in the PUD District ordinance.

(B) *Development Standards.*

- (1) *Development standards* applicable to a PUD shall be those standards specified in the PUD District Ordinance establishing such district, either in text form, or as noted on the preliminary plan filed with the petition for zone map change, or any combination thereof.
- (2) Every petition for zone map change to the PUD District shall specify *development standards* applicable to each permitted *use* in the PUD District and, at a minimum,

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shall adopt or include a variation of each development standard that is applicable to each such *use* in the district in which each such *use* is first permitted.

- (3) In any case in which an applicable development standard has not been specified in the petition for zone map change to the PUD District, the development standard shall be that which is specified in the district in which the *use* is first permitted unless the petition for zone map change to the PUD District contains:
 - (a) A statement that the petitioner does not want an otherwise applicable development standard for any permitted *use* in the PUD to be applicable;
 - (b) An alternate development standard; and,
 - (c) The statement and alternate development standard are included in the PUD District Ordinance establishing such district.

Section 7.03 Procedure for Approval of a Planned Unit Development.

- (A) The complete review and approval process for a Planned Unit Development consists of three (3) elements:
 - (1) *Concept Plan* review;
 - (2) Preliminary Plan approval and zone map change; and,
 - (3) Secondary Approval.
- (B) The filing of a *Concept Plan* is required. The filing of a *Concept Plan* and the review of the *Concept Plan* by the *Staff* will create an understanding between the *Staff* and the developer which may help to alleviate future misunderstandings and extensive revisions.
- (C) A petitioner may elect to proceed with Preliminary Plan approval and Secondary Approval separately, or may elect to combine them for joint approval as set forth in sub-Section 7.06 (C)(2), below. If a petitioner elects to combine secondary and primary approval, both shall be docketed before the *Area Plan Commission* for a joint hearing.
- (D) If filed separately, the procedure for filing for approval of a zone map change shall be the same as that required for any other petition for zone map change before the *Area Plan Commission*, except as otherwise provided for in this Chapter.

Section 7.04 Filing and Review of a Concept Plan.

- (A) The petitioner shall submit a *Concept Plan*, which may be supplemented with a written description of the proposed PUD, for review by the *Staff* prior to filing a petition for zone map change to the PUD District.
- (B) *Staff* shall review the proposed *Concept Plan* taking into consideration information regarding the terrain of the site and any unique natural features of the site. In doing so, the review by *Staff* may include, but shall not be limited to, the following:
 - (1) Protection of unique topographical features on the site, including, but not limited to, slopes, streams, natural water features, floodways, floodplains and regulated drains;
 - (2) Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features;
 - (3) Development of common areas, *open space* or recreational areas (passive or active) accessible to the residents or users of the PUD by way of sidewalks, footpaths or combined walkways/bikeways;
 - (4) A more efficient use of the land including the reduction of land area disturbed for utility lines and motor vehicle access;
 - (5) Creation of innovative residential and business environments;
 - (6) Minimize the alteration of the natural site features through the design and situation of individual lots, *streets* and *buildings*;
 - (7) Diversity and originality in lot layout;
 - (8) Utilization of individual building designs which achieve an enhanced relationship between the development and the land; and,
 - (9) Relationship to surrounding properties.
- (C) The *Executive Director* shall notify the petitioner of any *Staff* comments related to the design of the proposed *Concept Plan* submitted for review within fifteen (15) business days of the submittal. Upon receipt of *Staff* comments, the Petitioner may:
 - (1) Modify the proposed *Concept Plan* and resubmit a revised *Concept Plan* for a second round of review by *Staff*; or,

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- (2) File a petition for zone map change as set forth below.
- (D) Notwithstanding anything contained in this Ordinance to the contrary, neither the *Staff's* review of the proposed *Concept Plan* submitted for review nor *Staff's* comments to the petitioner relating thereto shall be considered a denial, approval or decision concerning the proposed *Concept Plan*.

Section 7.05 Filing Petition for Zone Map Change.

- (A) **Petition.** A PUD District Ordinance petition shall contain a preliminary plan that satisfies the requirements below, and shall specify in either general terms or detailed terms the *permitted uses* and *development standards* that will apply to the real property included in said petition.
- (B) **Detailed Terms.** A preliminary plan which includes a detailed description of all development requirements that apply to the proposed PUD on any of the site plans, building elevations, landscape plans, sign plans, or any other plan required by this Ordinance in sufficient detail to fulfill the requirements for the issuance of an *improvement location permit*, shall be deemed to have expressed, in detailed terms, the development requirements that apply.
- (C) **General Terms.** All preliminary plans or submittals which do not comply with the requirements above for detailed terms shall be deemed to have expressed the development requirements that apply to the proposed PUD in general terms only and shall require secondary approval, as set forth below, prior to the issuance of an *improvement location permit*.

Section 7.06 Filing and Review of Preliminary Plan.

The petitioner must file an application requesting primary approval, and submit plans consisting of the following:

- (A) A site development plan of the overall PUD, drawn to a scale of not more than one inch equals one hundred feet (1"=100') and shall be on plan sheets not to exceed twenty-four by thirty-six (24" x 36") in size, which:
 - (1) Depicts the location of proposed land uses and maximum land use densities;
 - (2) Expresses *development standards* in either general terms or detailed terms;
 - (3) Proposed layout of *streets, open space* and other basic elements of the development;

- (4) All public and private *streets* and pedestrian ways within two-hundred (200) feet of the site;
 - (5) North arrow, written and graphic scale, general location map;
 - (6) Percentage of site devoted to *open space*;
 - (7) A preliminary sign plan; and
 - (8) Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation, and other pertinent development features.
- (B) Determination by the *Area Plan Commission*. In its determination of the appropriateness of the proposed PUD and whether to recommend approval of the zone map change to the *Town*, the *Area Plan Commission* shall pay reasonable regard to the extent to which the proposal accomplishes the intent set forth in Section 7.01 Intent, above, and provides for the protection or provision of the site features and amenities outlined in sub-Section 7.04 (B), above.
- (C) Preliminary Plan Approval and Secondary Approval
- (1) *Preliminary Plan Approval*. If the preliminary plan expresses *development standards in general terms*, as described above, secondary approval as set forth in Section 7.07 Secondary Approval, below, shall be required prior to the issuance of an *improvement location permit* for any development pursuant to the PUD District Ordinance.
 - (2) Combined Preliminary Plan Approval and Secondary Approval. If the preliminary plan expresses *development standards in detailed terms*, as described above, the Petitioner may request secondary approval in connection with the approval of the zone map change to the PUD District, provided that any such approval shall be conditioned upon the *Council* adopting the zone map change to the PUD District. The requirements for a secondary approval are set forth in Section 7.07 Secondary Approval, below. If the preliminary plan expresses the *development standards in detailed terms*, as described above, the PUD District Ordinance must specify any plan documentation or supporting information that must be supplied before an *improvement location permit* may be issued for development of real property in the planned unit development district.
- (D) *Commitments, Conditions Or Surety*.
- (1) Commitments. Commitments may be permitted or required of the owner of the real property in connection with:

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- (a) A zone map change for a PUD District;
 - (b) A secondary approval of a PUD; or,
 - (c) A modification of *permitted uses* or development requirements of a PUD, as set forth in Section 7.07 Secondary Approval, below.
- (2) Conditions. Conditions may be imposed on the approval of a PUD District which are reasonably necessary to assure compliance with the permitted *use, development standards* and minimum requirements of the PUD District Ordinance.
 - (3) Surety. Bonds or other written assurance may be required which are reasonably necessary to guarantee the timely completion of a public improvement required by the proposed PUD District Ordinance. Such bond or other written assurance shall be satisfactory to the *Executive Director*, and shall run to the *Town*.

Section 7.07 Secondary Approval

- (A) Secondary Approval Required. Secondary approval is required in the PUD District as a prerequisite to the issuance of an *improvement location permit* for development of any real property in such *district*.
- (B) Supporting Documentation. Before the issuance of a secondary approval, the petitioner must file an application requesting secondary approval and submit plans consisting of the following:
 - (1) Area map insert showing the general location of the proposed development referenced to major *streets* and section lines;
 - (2) Location map showing the names of all metes and bounds property owners, boundary lines of recorded subdivisions, zoning and land uses of adjacent properties;
 - (3) Proposed name of the PUD;
 - (4) Legal description of the real estate;
 - (5) Boundary lines of the proposed PUD;
 - (6) Location and name of all existing and proposed public or private *streets*, roads, access easements and rights-of-way within two-hundred (200) feet of the real estate;

- (7) Location of all existing and proposed utility facilities and easements, including, but not limited to: sanitary sewer, water, storm water management, electric, gas, telephone and cable within two-hundred (200) feet of the real estate;
- (8) Layout, number and dimension of all lots and out lots with zoning setback lines;
- (9) Location, delineation and elevation of all floodway and floodway fringe areas within the boundaries of the PUD;
- (10) Drainage plan;
- (11) Landscape plan;
- (12) Sign plan;
- (13) An erosion control plan for all areas of site disturbance.
- (14) Topographic contour every two (2) feet superimposed upon the proposed site plan portion of the site covered by the submitted plans;
- (15) Proposed elevation of all building pads within the proposed development;
- (16) All improvements to street system, on-site and off-site;
- (17) Sidewalk plan or alternate plan for walkways or other pedestrian ways;
- (18) Plans and specifications for all infrastructure improvements required or proposed in the PUD;
- (19) Areas reserved for park, conservation, wetland, common area, lake or other similar *uses*;
- (20) Proposed covenants, conditions and restrictions, if any;
- (21) The character and approximate density of all proposed *uses* and structures in the plan area;
- (22) Any other information specified elsewhere in this Ordinance as a prerequisite to the issuance of an *improvement location permit*; and

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- (23) Any other information requested in writing by the *Executive Director* or *Area Plan Commission* in connection with the preliminary plan approval or requested in writing by the *Executive Director* within fifteen (15) business days of filing.
- (C) The *Area Plan Commission* or *Executive Director*, during secondary approval review, shall specify any additional plan documentation or supporting information beyond that required by this subsection (B) above, which must be supplied before an *improvement location permit* may be issued for the development of any real estate located in the PUD District.
- (D) Secondary Approval Authority.
- (1) Secondary approval authority is hereby delegated to the *Executive Director*. The *Executive Director* shall have a period of not more than fifteen (15) business days in which to review the proposed secondary approval application and either:
- (a) Render a decision of approval or denial concerning the secondary approval; or
- (b) Request in writing additional information from the applicant. If additional information is requested, the *Executive Director* shall have an additional period of fifteen (15) business days to review the information from the date the requested information is received.
- (2) The *Executive Director* may seek the advice and comment of the Executive Committee of the *Area Plan Commission* or other *Staff* members, as deemed appropriate, prior to making a decision.
- (3) Any decision of the *Executive Director* under this Section may be appealed by any interested party to the *Area Plan Commission* in accordance with the procedures of Section 7.11 Appeals of Executive Director's Decisions, below.
- (4) If, in the sole discretion of the *Executive Director*, there are questions regarding how the application for secondary approval fulfills the intent of the PUD District Ordinance or how the secondary approval expresses in detailed terms the general terms approved as part of the preliminary plan and zone map change to the PUD District, the *Executive Director* may refer the proposed secondary approval to the *Area Plan Commission* for review and determination.
- (E) Proceedings/Notice. The proceedings required for secondary approval shall be the same as those required by this zoning ordinance for the review and issuance of an *improvement location permit*.

- (F) Required Findings.
- (1) The *Area Plan Commission* or *Executive Director* may issue a secondary approval only upon a finding that:
 - (a) The plans submitted for secondary approval satisfy the *permitted uses* and *development standards* specified in the PUD District Ordinance establishing such PUD District;
 - (b) The plans submitted for secondary approval accomplish the intent set forth in Section 7.01 Intent, above; and,
 - (c) The plans submitted for secondary approval provide for the protection or provision of the site features and amenities outlined in Section 7.04 (B), above.
 - (2) Written findings of each determination to approve or disapprove a secondary approval. If the *Area Plan Commission* makes a determination regarding a secondary approval, the written findings shall be signed by the President of the *Area Plan Commission*. If the *Executive Director* makes a determination regarding a Secondary Approval, the written findings shall be signed by the *Executive Director*.
 - (3) Said secondary approval and written findings, upon approval, shall be sealed with the Seal of the *Area Plan Commission* and retained in the office of the *Area Plan Commission* to be used in its continuing administration of the PUD.
- (G) Secondary approval of a PUD District Ordinance, whether submitted in its entirety or in development phases, does not expire after the date of final approval. Upon an application for an *improvement location permit* for the use or development of the property, whether in its entirety or in development phases, all required *improvements* shall be designed and constructed with the latest *standards* in effect at the time of said application as adopted by the *Town*.

Section 7.08 Modification of Preliminary Plan or Secondary Approval

- (A) Minor modifications to a preliminary plan or secondary approval which has already received approval from the *Area Plan Commission* or the *Executive Director* and which do not involve:
- (1) The designation of additional land uses; or
 - (2) An encroachment into any drainage easement, regulated drain setback or floodplain,

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may be authorized by the *Executive Director* without a public hearing in its continuing administration of the PUD if, in the determination of the *Executive Director*, the requested minor modifications do not adversely impact the purpose or intent of the overall development.

- (B) If the *Executive Director* determines that the proposed modification is of such a nature as to adversely impact the purpose or intent of the overall development, or if the proposed modification includes:
- (1) The designation of additional land uses; or
 - (2) An encroachment into any drainage easement, regulated drain setback or floodplain,
- the petitioner shall be required to file a new petition for zone map change.

Section 7.09 Secondary Plat Approval

The process for the approval and recording of a secondary plat for any development in a PUD approved pursuant to this Section shall be issued in a manner consistent with that for any other subdivision within the *Town* as set forth in the Subdivision Control Ordinance for the *Town* and with any additional requirements or commitments entered into in connection with the approval of the preliminary plan pursuant to this Section. The approval and recording of a secondary plat is required prior to the issuance of an *improvement location permit* for any improvements on a *lot*.

Section 7.10 Maintenance of Common Open Space

In those PUD Districts in which *open space*, common areas or recreation areas are provided for the use and enjoyment of residents or users of the PUD District, the petitioner shall file documentary assurances that the permanent dedication and continuous maintenance of *open space*, common areas or recreation areas shall be made in accordance with the approved preliminary plan and secondary approval, and that the *open space*, common areas and recreation areas shall be made available to the residents and users of the overall development in the PUD at a reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the secondary plat that is recorded in the Office of the St. Joseph County Recorder or otherwise provided for through legally binding perpetual agreements as approved by the *Area Plan Commission* and the *Town*. Such *open space* shall perpetually run with the PUD and shall not be developed or separated from the overall development in the PUD at a later date (unless no development of any portion of the PUD which is benefited by the *open space*, common areas or recreation areas has occurred and the entire area subject to the PUD is presented for zone map change).

Section 7.11 Appeals of Executive Director's Decisions

- (A) Generally. Any order, requirement, decision or determination by the *Executive Director* regarding a secondary approval, or a modification of a preliminary plan or secondary approval, may be appealed to the *Area Plan Commission* by any person claiming to be adversely affected by that order, requirement, decision or determination.
- (B) Appeal Process. The procedures for such an appeal are as follows:
- (1) Every appeal shall be filed within thirty (30) days from the order, requirement, decision or determination.
 - (2) All appeals shall be determined by the *Area Plan Commission* at a public hearing for which notice has been provided as follows:
 - (a) A remonstrator shall send notice to the owner of the real estate, the applicant for the secondary approval, or a modification of a preliminary plan or secondary approval, and all abutting property owners;
 - (b) A petitioner shall send notice to the owner of the real estate and all abutting property owners; and
 - (c) Notice shall be sent as provided by rule of the *Area Plan Commission*.
 - (3) The *Area Plan Commission* hearing shall be de novo, in the same manner as though the application was originally filed with the *Area Plan Commission*.
 - (4) The decision of the *Area Plan Commission* with respect to a secondary approval, or a modification of a preliminary plan or secondary approval, shall be a final decision that may be reviewed only by certiorari procedures as provided in I.C. 36-7-4-1016.