

REQUEST FOR COUNCIL ACTION

Date: **07/07/14**

Item No.: 14.c

Department Approval

City Manager Approval



Item Description: Planned Unit Development (PUD) Discussion

BACKGROUND

In the early 2000s, Roseville used PUDs to address unique development proposals that sought deviations from various code requirements including height, lot coverage, and setback requirements. PUDs were created frequently and were often complex in their creation and implementation.

In 2010, it was determined that the PUD Ordinance was unnecessary after adopting a new Zoning Ordinance. The new Zoning Ordinance included many of the nuances that developers frequently sought from PUDs and supported the goals and objectives outlined in the Comprehensive Plan. In addition, PUDs were considered undesirable because they were time consuming with no guarantees of approval.

ANALYSIS

Recently, there has been some discussion regarding whether there may be instances when PUDs could be beneficial and whether they should be reintroduced to the City Code in some manner.

In order to facilitate this discussion, the Planning Division has conducted some background research on how nearby communities have been using planned unit developments (PUDs) to further their development goals.

The division's intern conducted in person and telephone interviews with planners and community development directors from Arden Hills, Falcon Heights, Maplewood, and Oakdale. She also spoke with planners from WSB Engineering who have experience planning for Clearwater, Mahtomedi, Minnetrista, Saint Anthony Village, and other cities. These communities were selected because they are experiencing similar development patterns to Roseville, or because their staff have unique experiences with infill and greyfield development projects.

PUDs are frequently used throughout the country in order to give city staff and developers more flexibility to create developments that are superior to what would otherwise be possible with strict compliance with the Zoning Ordinance. PUDs are often used for projects that are unique in ways that weren't anticipated when the zoning ordinance was created or for developments on sites that may have unique features. For example, a PUD might be used in an environmentally sensitive location to allow for the same number of housing units to be developed, but with the flexibility to cluster them in the part of the lot that is not environmentally sensitive while allowing a large common, open space area to be used for the development's recreation/open space needs while also providing greater protection for the sensitive resource area.

However, since they are negotiated agreements, PUDs can also be misused or have complications including the following:

- If the underlying concepts of the PUD evolve over time, substantial changes to the PUD can only occur through a negotiated process which includes similar approval processes and legal documentation as the original approval
- When property is sold to other owners in the PUD, making modifications for one user in the future may necessitate the acceptance by other property owners within the original PUD boundaries (depending on the wording of the original PUD agreement).
- Cities may allow developers to bypass zoning requirements without any mitigating project features.
- Cities may use the PUD process to extract concessions from developers that are viewed to be unfair.
- Communities using PUDs as a regulatory “patch” in order to cover up weaknesses in the underlying zoning code that should be amended instead.

When properly designed and implemented, PUDs are negotiated in a logical and balanced manner, with increased flexibility provided to developers in exchange for increased mitigation to accomplish the same or superior outcomes.

PUD PROCESS

Sketch Plan Review Process

All of the cities studied allow for a sketch plan review before a formal PUD application is submitted. This helps developers clarify exactly what is required of them before expending significant resources on a project.

The sketch plan review process is fairly similar in each city. Developers submit a plan that shows a scale drawing of the site; surrounding land uses; the rough location of proposed structures, amenities, and parking areas; a description of land uses and proposed densities; a description of topography and proposed land alterations; and other relevant information. City staff review the proposed project for compliance with city ordinances and the Comprehensive Plan.

After reviewing the sketch plan, city staff explain to the developer whether or not they would support the proposed project and what changes the developer can make to improve the project. A negative sketch plan review does not prevent the developer from submitting a formal application, but when developers work with city staff to make necessary changes, the approval process goes more smoothly.

Overlay Districts and New Zoning Districts

The majority of PUDs are treated either as overlay districts or new zoning districts. Some cities allow for both depending on the needs of the project.

PUDs as an Overlay District

When a PUD is treated as an overlay district, the underlying zoning still applies. When writing the PUD, city staff only consider the issues directly related to new development such as setbacks, density, or height. This can be a more streamlined process than creating a new zoning district. There are numerous issues covered in each zoning district that do not directly impact every proposed PUD. These issues can include sign regulations and

77 regulations of accessory structures. Planners find that it is more straightforward to defer
78 to the underlying zoning than to consider every possible issue in as much detail as they
79 would for a new zoning district.

80 Writing a PUD as an Overlay District can lead to some unexpected consequences. One
81 planner gave the example of a sign regulation that was part of the original zoning
82 affecting a PUD. None of the parties involved had considered the sign regulations during
83 the negotiation process. City staff were unsure whether or not it would be appropriate to
84 grant a variance or amend the PUD to change the sign regulations. If PUDs are treated
85 as an overlay district, it is important to have a clear procedure in place for when conflicts
86 with the underlying zoning occur.

87 *PUDs as a new Zoning District*

88 When PUDs are treated as a new zoning district, the underlying zoning does not apply
89 after a PUD is passed. Treating a PUD as a separate zoning district requires more effort
90 from city planners and developers because it forces them to sit down and consider every
91 possible land use issue and write a more comprehensive ordinance. This can lead to a
92 PUD ordinance that is more appropriate for the type of development that is taking place,
93 but also requires a significant increase in the amount of resources expended in the
94 process. Generally, treating PUDs as a separate zoning district is more appropriate if a
95 city anticipates larger and more unique developments.

96 Treating a PUD as a separate zoning district can also have unexpected consequences. If
97 a development is rezoned as a PUD and is never built, landowners cannot revert back to
98 the original zoning without going through the process of getting the PUD repealed. The
99 city should think twice about creating separate zoning districts for PUDs if there is any
100 degree of uncertainty that the project will be completed.

101 **SITE PLAN REVIEW**

102 PUDs provide Planning Commissions and City Councils with additional opportunities for
103 design oversight in circumstances where an applicant is seeking regulatory flexibility.
104 However, in instances where there is not a request for regulatory flexibility (the applicant
105 is following all of the standards), a different approval process would need to be employed
106 to provide opportunities for design oversight by the Planning Commission and City
107 Council. Staff is bringing the site plan review process into this PUD discussion in order
108 to inform the City Council what that process is (since it is not in the Roseville ordinance)
109 and how it compares to a PUD form of approval since they are often used for similar
110 design oversight purposes.

111 In site plan review, the applicant is not asking for any zoning code flexibility and
112 therefore overall project denial is not in doubt. The applicant's submittal would have to
113 comply with all setbacks and other requirements. However, a site plan review process
114 allows the reviewing body to shape the nature of the development. Common outcomes of
115 site plan review include items such as requiring the relocation of buildings or access drive
116 locations; adjustments to landscaping or determination of appropriate berming options.

Process

Like with planned unit developments, it is common to allow for an optional sketch plan review process prior to the submission of a formal application. During the sketch plan review, the city communicates its concerns about the project and information for how the developer can improve the project. This allows the developer to gain an understanding of what the city needs to approve a plan before expending significant resources.

After the sketch plan review, the developer submits a formal application. The information required for a formal application is more comprehensive than the information required for a sketch plan review. This information can include the exact location of proposed structures, amenities, and parking areas; a lighting plan; a grading/stormwater drainage plan; a landscape plan; a tree preservation plan.

Some cities require all site plan reviews to go through an approval body (City Council and/or Planning Commission) while others distinguish between minor and major projects to allow simpler projects to proceed with a staff level approval.

Minor projects

The definition of minor projects can vary based on the city's development goals. Minor projects are generally smaller scale projects that are likely to be non-controversial. Minor projects may be administratively approved in lieu of Planning Commission review and City Council approval. The staff person (or staff committee) who reviews the project is expected to use the same criteria that would be applied to major projects. This process is significantly more streamlined and is appropriate for less complicated projects.

Major projects

Any project that does not meet the criteria for a minor project is considered a major project. The same information is required for major projects, but major projects must be reviewed by the Planning Commission and approved by the City Council.

STAFF RECOMMENDATION

The preceding information is for facilitation of discussion. No staff recommendation is being made at this time.

REQUESTED CITY COUNCIL ACTION

Review the information above and provide feedback to staff.

Prepared by: Cadence Peterson, Planning and Zoning Intern
Attachments: A: St. Louis Park PUD ordinance
B: Woodbury PUD ordinance
C Minnetrista PUD ordinance

- c. Submission requirements. The following information shall be submitted prior to the installation of an awning or canopy.
 - 1. Application form and fee. A separate fee shall be required for the building permit and encroachment agreement.
 - 2. Dimensioned and scaled site plan and building elevations.
 - 3. Four sets of drawings for each awning or canopy proposed.
- d. Projections to be safe. All such projections over public property shall be structurally safe, shall be kept in a safe condition and state of repair consistent with the design thereof and repaired when necessary in the opinion of the city engineer or building official by and at the expense of the person having ownership or control of the building from which they project.
- e. Removal upon order. The owner of an awning or canopy, any part of which projects into, upon, over or under any public property shall upon being ordered to do so by the city engineer remove at once any part or all of such encroachment and shall restore the right-of-way to a safe condition. Such removal and restoration of the right-of-way will be at the sole expense of the property owner. The city may, upon failure of the property owner to remove the encroachment as ordered, remove the encroachment, and the reasonable costs of removing such encroachment incurred by the city shall be billed and levied against the property as a special assessment.

(c) Appeal. In any instance where the zoning administrator denies a permit or a request for preliminary approval of building materials or building design, the applicant may submit an appeal to the interpretation, based upon the plans and other papers on file in the office of the zoning administrator, to the city council without payment of additional filing fees of any kind.

(Code 1976, §§ 14:6-6.0--14:6-6.2; Ord. No. 2188-01, 2-5-2001; Ord. No. 2201-01, § 2, 7-2-2001; Ord. No. 2234-02, § 2, 12-2-2002; Ord. No. 2262-03, § 2, 12-15-2003; Ord. No. 2320-06, 12-1-2006; Ord. No. 2358-08, 8-14-2008)

Sec. 36-367. Planned unit development (PUD) process.

(a) Findings and purpose. The city council finds that a PUD process will benefit the city and its residents because the process permits greater flexibility in the development of a parcel by tailoring the development to the site and neighborhood. Such benefits include, but are not limited to:

- (1) Greater utilization of new technologies in building design, construction, and land development.
- (2) Higher standards of site and building design.
- (3) More efficient and effective use of streets, utilities, and public facilities to support high-quality development at a lesser cost.
- (4) Provision of recreational, public, and open spaces which may be made more usable and be more suitably located than would otherwise be provided under conventional development procedures.
- (5) A flexible approach to development is permitted by allowing certain limited modifications to the strict application of regulations of the use districts that are in harmony with the goals, purpose and intent of the city's comprehensive plan and this chapter.

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- (6) A more creative and efficient use of land is encouraged.
- (7) The preservation and enhancement of desirable site characteristics, including flora and fauna, scenic views, screening and access is fostered.
- (8) Allowing the development to operate in concert with a redevelopment plan in certain areas of the city and to ensure the redevelopment goals and objectives will be achieved.
- (9) Flexibility in the design and construction is allowed for development in cases where large tracts of land are under single ownership or control and have the potential to significantly affect adjacent or nearby properties.

(b) Application of section provisions. The provisions of this section shall be administered as follows:

- (1) No PUD shall be approved on property located in the R-1 district or R-2 district.
- (2) Approval of a PUD shall not alter the underlying use district classification or the application of district regulations unless they are modified under the terms of subsection (d) of this section.
- (3) Permitted land uses in a PUD shall be limited to those land uses permitted in the underlying use district.
- (4) Projects available for PUD treatment shall have a site which consists of a parcel or contiguous parcels of land two acres or more in size. Tracts of less than two acres may be approved only if the applicant can demonstrate that a project of superior design can be achieved or that greater compliance with comprehensive plan goals and policies can be attained through use of the PUD process.
- (5) Modifications of use district regulations may be approved as part of the overall approval of the PUD, if the following conditions are satisfied:
 - a. The modifications bear a demonstrable relationship to, and are consistent with, the goals and policies of the comprehensive plan.
 - b. The adverse impact and effect of such modifications will be eliminated by screening landscaping, superior site and building design and other features related to planning, design and construction.
 - c. The modification is necessary to achieve the purposes of this subsection.
 - d. The modifications are limited to those allowed in table 36-367A and fall within allowable limits authorized by subsection (d)(3) of this section.
- (6) Planned unit development projects shall be subject to the imposition of additional requirements as part of the PUD approval when, in the opinion of the city council, such additional requirements are necessary to protect the general welfare, public safety, neighborhood character and/or to achieve the objectives contained in section 36-1.

(c) Building and site design. The city council shall find that the quality of building and site design proposed by the PUD plan will substantially enhance aesthetics of the site and implement relevant goals and policies of the comprehensive plan before a PUD plan may be approved. In addition, the following criteria shall be satisfied:

- (1) The design shall consider the whole of the project and shall create a unified environment within project boundaries by ensuring architectural compatibility of all structures, efficient vehicular and pedestrian circulation, aesthetically pleasing landscape and site features, and design and efficient use of utilities.
- (2) The design of a PUD shall achieve the maximum compatibility of the project with surrounding land uses, both existing and proposed, and shall minimize the potential adverse impacts of the PUD on surrounding land uses and the potential adverse effects of the surrounding land uses on the PUD.
- (3) The design shall take into account any modifications of chapter requirements permitted by subsection (d) of this section and provide appropriate solutions to eliminate the adverse impacts of any modification required for approval of the PUD.
- (4) If a project for which PUD treatment has been requested involves construction over a period of time or in two or more phases, the PUD applicant shall demonstrate that each phase is capable of addressing and meeting these criteria independent of the other phases.
- (5) More than one building may be placed on one lot in a PUD.
- (6) Unless modified by the following or other provisions of this chapter, a PUD in an R-3, R-4 or R-B district shall conform to the requirements of the district within which it is located:
 - a. The tract of land for which a project is proposed shall have not less than 200 feet of frontage on a public right-of-way.
 - b. No building shall be nearer than its building height to any property line when the property abutting the subject property is in an R-1 or R-2 district.
 - c. No building within the project shall be nearer to another building than half the sum of the building heights of the two buildings, except for parking ramps which may be directly connected to another building.
 - d. Private roadways within the project site may not be used in calculating required off-street parking space.
- (7) A PUD in a nonresidential district shall conform to the requirements of the district in which it is located except as modified by the following or other provisions of this chapter:
 - a. All off-street loading facilities, including loading debris, shall be completely contained within a building.
 - b. If property which is either residentially used or zoned abuts a site proposed for development as a PUD, the required yard in the PUD along the property line adjacent to the residential property shall be equal to one foot for every one foot of building height for each structure.

(d) Modifications.

- (1) Modifications of chapter requirements granted as part of a PUD shall not be subject to the provisions of section 36-33. Such modifications shall be approved as part of the overall approval of a PUD but any modification granted shall be written into the resolution approving the PUD.

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- (2) Any modification of chapter requirements approved as part of a PUD shall be approved only upon a showing that the modification does not adversely affect surrounding properties because the PUD plan has provided screening, fencing, walls, or other site improvements which have eliminated the adverse effects of the modification.
- (3) Any modification approved as part of a PUD shall not exceed the maximum modification allowed as shown on table 36-367A, except as specifically approved for shopping centers over 200,000 square feet according to the conditions in section 36-194 or as specifically approved for mixed use developments according to the conditions in the M-X district:

TABLE 36-367A**ALLOWABLE MODIFICATIONS IN PUDS**

<i>Chapter Requirement</i>	<i>Maximum Modification Allowed</i>
Distance from property lines, except when abutting residentially zoned or used property	No required yards
Distance from other buildings	As building code allows
Building height	No maximum if consistent with the comprehensive plan
Density	10% increase or as consistent with the comprehensive plan
Ground floor area	5% increase
Floor area ratio	Limited by height, density and ground floor area restrictions
Designed Outdoor Recreation Area	33% decrease consistent with provisions below. If land is dedicated for park, then the decrease may be increased to 50% according to provisions below.
Parking	15% decrease in addition to other allowable chapter reductions

- (4) An applicant for a PUD seeking modifications as permitted in table 36-367A shall demonstrate how the proposal will enhance, support, and further the following objectives:
 - a. Provide for integrated pedestrian facilities to and within the project;
 - b. Enhance linkages to mass transit facilities;
 - c. Increase the supply of low-income and moderate-income housing;
 - d. Incorporate implementation of travel demand management strategies as part of the PUD plan;
 - e. Provide public plazas and designed outdoor recreation area which exceeds minimum chapter requirements; and
 - f. Provide a high degree of aesthetics through overall design and display of public art.
- (5) If the applicant is seeking modifications to the use district requirements for designed outdoor recreation area, those modifications are allowed at the sole discretion of the City Council based upon the following provisions.

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- a. Reductions of up to 50% of the designed outdoor recreational area shall be approved by PUD at the sole discretion of the City Council only if the site meets of the following requirement:

Land or cash in lieu of land is dedicated for parks, trails, and open space on a one for one basis up to a maximum of 50% of the requirement.

- b. If the full park dedication reduction is not taken, the City Council may consider reductions if the site meets one or more of the following requirements, but in no case may the reduction for these items exceed 33% or the cumulative reduction exceed 50% of the requirement:

1. Permanent accessible open space or regional trail is located on land within 600 feet of all buildings within the development and meets all of the following:
 - i. Such open space or regional trail is deeded as public and designated in the Comprehensive Plan as Park or is protected by covenants which ensure its perpetuation for public use.
 - ii. The land area of such open space is at least twice the size of the recreational area credit requested for the development site.
 - iii. The development includes logical pedestrian/bicycle connections to the open space or regional trail.
 - iv. The location of building service areas is away from the open space or in heavily screened areas.
 - v. Design and location of buildings complement the scale and character of the open space, and
 - vi. Use of substantial landscaping is provided to create transitions between the development and open space.

Projects meeting all of the open space/trail requirements may reduce designed outdoor recreational area requirements by up to 20%

2. Public Art. Recreation space credits for public art are granted at the sole discretion of the city council and may reduce designed outdoor recreational area requirements by up to 20%.
3. Other public amenities. Recreational area credits for public amenities are granted at the sole discretion of the city council and may reduce the designed recreational area requirements by a maximum of 20%.
4. A redevelopment plan has been adopted into the Comprehensive Plan that approves reductions to designed outdoor recreational area by a maximum of 33%.
5. Indoor parks. Recreation space credits for significant indoor recreational space, such as a park or courtyard, may be granted at the sole discretion of the city council and may reduce designed outdoor recreational area requirements on a one for one basis by up to a maximum of 20%

(Ord. No. 2267-04, 4-12-04)

(e) Submission requirements and procedure.

- (1) *Planned unit development.* Planned unit developments shall be proposed and considered according to the requirements of this subsection.
- (2) *Preliminary discussion.* Before filing an application for approval of a PUD, an applicant is encouraged to submit a concept plan for review and comment by the city staff. The applicant may request a review of the concept plan by the planning commission to obtain the commission's nonbinding comments on its merits.
- (3) *Preliminary PUD plan.* An application for a preliminary PUD plan shall include all of the following information:
 - a. All information required for consideration and approval of a preliminary plat, if a plat is necessary.
 - b. A general development plan including the following:
 1. Site conditions and existing development on the subject property and immediately adjacent properties.
 2. The proposed use of all areas of the site.
 3. The proposed density, type, size and location of all dwelling units, if dwelling units are proposed.
 4. The general size, location and use of any proposed nonresidential buildings on the site.
 5. All public streets, entrance and exit drives, and walkway locations.
 6. Parking areas.
 7. Landscaped areas.
 8. Parks and open space, public plazas and common areas.
 9. Site dimensions.
 10. Generalized drainage and utility plans.
 11. Any other information which the city may request.
 - c. Summary sheets which include the following:
 1. Proposed densities.
 2. Acreage or square footage of individual land uses on the site.
 3. All proposed modifications of district regulations being requested.
 - d. Generalized staging plan for the project, including the geographical sequence of construction and the number of dwelling units or square footage of nonresidential property to be constructed in each stage.
 - e. Traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements.
 - f. A statement showing how the PUD will meet the stated purposes and objectives of this section.
 - g. Environmental data which the city may deem necessary. At a minimum, this shall include a preliminary analysis of the probability of site contamination.

- (4) *Final PUD plan.* The final development plan for a PUD shall contain all of the following information:

- a. A final plat which meets the requirements of the Code provisions which create condominium ownership, if required.
- b. A final site plan drawn to scale showing the location of all structures including their placement, size and type as well as streets, parking areas and stall arrangement, walkways and other pedestrian facilities, parking calculations, and designed outdoor recreation area including public plazas and commons.

(Ord. No. 2267-04, 4-12-04)

- c. A landscape plan showing the location, size, and species of all plant materials, a landscaping irrigation system plan, and all other nonvegetative landscaped features.
 - d. A utility plan showing the location and size of all on-site utilities and easements as well as stormwater runoff calculations for both the predevelopment and postdevelopment condition of the site.
 - e. Building plans at a level of detail necessary to allow parking calculations to be made and building elevation drawings showing architectural details and proposed building materials.
 - f. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
 - g. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development of the plan or portions thereof, including the estimated date of beginning and completion of each state.
 - h. Any other information which the city in its sole discretion may require to fully present the intention and character of the PUD.
- (5) *Procedure.* Planned unit developments shall be proposed and processed according to the requirements of this section. No application for a final PUD shall be processed until the application for a preliminary PUD has been approved by the city council.
- a. An application for approval of a preliminary PUD shall be on a form provided by the city which shall include all of the following information:
 - 1. The name, address and telephone number of the applicant.
 - 2. The name, address and telephone number of the property owner.
 - 3. The districts in which the PUD is proposed to be located.
 - 4. All data and plans comprising a preliminary PUD plan. No action on a preliminary PUD will be taken until all of the required information is received by the city.
 - b. The application shall be reviewed by city staff and a report concerning the application shall be submitted to the planning commission for its consideration within 45 days of receipt of all material required by this section for review of the application.

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- c. The planning commission shall hold a public hearing in accordance with section 36-34(c)(3). The planning commission may continue the public hearing if necessary and shall make a recommendation to the city council within 60 days of the date of the initial public hearing. If the planning commission fails to deliver a recommendation to the city council within the 60-day period, the city council may then consider the preliminary PUD without the planning commission's recommendation.
- d. The city council may approve the preliminary PUD plan in whole or in part, may approve subject to conditions, may deny, or may continue consideration of the preliminary PUD plan for further investigation and hearing at a later date.
- e. The city council shall render a decision regarding the preliminary PUD plan request within 90 days of the council's initial consideration of the preliminary PUD plan.
- f. When a preliminary PUD plan has been denied by the city council, the owner or applicant may not reapply for the same or similar development on the same property for the six-month period following the date of the denial.
- g. The final development plan for a PUD shall be submitted for approval within 90 days after city council approval of the preliminary PUD plan unless a written request for a time extension is submitted by the applicant and approved by the city council. The final PUD plan shall be considered according to the following procedure:
 - 1. The city staff shall review the final PUD plan and make a report of its findings and recommendations to the planning commission for its consideration within 60 days following receipt of the final PUD plan.
 - 2. The planning commission shall consider the staff report, other applicable data, and testimony and shall submit its recommendation to the city council. If the planning commission recommends approval of the final PUD plan, it shall find that the final PUD plan is in substantial compliance with the preliminary PUD plan and the comprehensive plan.
 - 3. The planning commission shall refer the final PUD plan to the city council within 60 days of its initial consideration of the final PUD plan.
 - 4. The city council shall consider the final PUD plan. If the city council deems it necessary, it may set a public hearing for consideration of the final PUD plan. The city council may deny the final PUD plan or may approve the final PUD plan in whole or in part. The Council shall make its decision within 60 days of its first consideration of the final PUD plan or within 60 days following any public hearing, whichever date is later.
- h. In instances where a PUD application does not require variances outside of code modifications allowed by this section, the community development director may elect to process the preliminary and final PUD simultaneously under the following conditions:
 - 1. Approval of the preliminary and final PUD will each be considered by separate motion.

2. The application for the final PUD will not be considered complete until the city council approves the preliminary PUD.

(6) *Development agreement.*

- a. The city may, at its sole discretion, require the owner and developer of a proposed PUD to execute a development agreement which may include, but not be limited to, all requirements of the final PUD plan as a condition to approval of a final PUD.
- b. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the city. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the city. The city may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.

(7) *Operating and maintenance requirements for common areas.* If certain land areas or structures within the PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall file a suitable agreement with the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city. These common areas may be placed under the ownership and control of one of the following:

- a. The landlord.
- b. Homeowners' association, if all of the following conditions are met:
 1. The homeowners' association must be established prior to the sale of any property in the PUD.
 2. Membership must be mandatory for each owner and successive buyer.
 3. The open space restrictions must be permanent.
 4. The association must be responsible for liability insurance, taxes and maintenance.
 5. The landowner must pay its pro rata share of an assessment levied by the association and that share, if unpaid, must become a lien on the property owned by the landowner.
 6. The association must be able to adjust the assessment to meet changed needs.

(8) *Fees and reimbursement for city costs.* The fee for a PUD shall be the same as the fee charged for a zoning change and plat approval. Section 36-35 shall also be applied to PUD applications.

(9) *Modifications.* Modifications granted as a part of a PUD shall have the same force and effect as a variance granted under section 36-34. These modifications, if permitted as a part of the approval of a PUD, shall be cited in the development agreement.

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- (10) *Zoning map.* All approved final development plans shall be drawn on the city's zoning map as it is revised from time to time. The map shall include a reference to the approved final development plan on file with the city.
- (11) *Approval and amendments.* The approval of a preliminary PUD plan and a final PUD plan and major amendments to the approved final plan shall require an affirmative vote of two-thirds of all the members of the city council. The approval of minor amendments to the approved final plan shall require an affirmative vote of a majority of all the members of the city council.
- a. Except as provided in subsection (e)(11)b.2. of this section, no building permit shall be issued or development shall occur on land for which a PUD has been approved which does not conform to the approved final plan.
 - b. Development of land for which a PUD has been approved which does not conform to the approved final plan shall only be allowed after one of the following occurs:
 1. A major amendment to the approved final plan of the PUD has been approved by the city council in the same manner as required for approval of a preliminary PUD. Major amendments shall include:
 - i. Changes in approved use classifications;
 - ii. Changes to the approved final plat;
 - iii. Increases in residential density, leasable floor area, building height, and/or required parking;
 - iv. Reductions in usable open space;
 - v. Modifications to section requirements; and
 - vi. Any changes that are anticipated to result in off-site impacts as determined by the zoning administrator.

Application fees for major amendments to PUDs shall be the same as fees for major amendments to conditional use permits.

2. A minor amendment to the approved final plan of the PUD has been approved by the city council in the same manner as required for minor amendments to conditional use permits after all owners of property within the PUD have been notified. Minor amendments shall include:
 - i. Changes that increase conformity with section requirements;
 - ii. Decreases in residential density, leasable floor area, building height, impervious surface and/or required parking provided such decreases have minimal impact on the overall character of the approved final plan as determined by the zoning administrator;
 - iii. Minor building additions and floor plan modifications that do not increase parking requirements or reduce usable open space; and
 - iv. Changes that are specified as minor amendments in the approved development agreement.

Application fees for minor amendments to PUDs shall be the same as fees for minor amendments to conditional use permits.

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3. Administrative approval has been obtained for modifications specified in the development agreement as requiring only administrative approval. Administrative approval shall require approval of both the zoning administrator and the director of community development unless otherwise stated in the approved development agreement. Such administrative approval shall only be granted after the following has occurred:
 - i. The applicant has provided written notification to all owners of property within the PUD that such approval is being sought. The notification shall inform the property owners that approval of the proposed modification may be granted after ten business days have elapsed from the mailing date of the notice unless the property owner files an appeal with the director of inspections within that time. If any such appeal is filed, the proposed modification shall be considered in the same manner as a minor amendment to the approved final plan.
 - ii. All fees associated with the administrative approval have been paid. Fees for administrative approval shall be determined in accordance with section 36-35.
4. There is a vacation of the approved PUD by the city council after notice of public hearing has been published and a public hearing has been conducted in the same manner as required for approval of a preliminary PUD. The council may impose conditions on the vacation of a PUD to protect the public health, safety and welfare.

(12) *Automatic termination.*

- a. Upon expiration of the time period approved by the city council for total development of a PUD, the subject area shall be permanently governed by the conditions, provisions and restrictions of the final development plan. That plan, as it may be amended from time to time, shall govern the use of the land.
- b. If a PUD is not completed within the required time period, the PUD classification shall automatically terminate for that portion of the PUD which has not been developed. The requirements and provisions of the primary use district shall apply to the remaining undeveloped area.

(f) Conversion of former PUD districts.

- (1) *Conversion permitted.* Properties located in areas which were PUD districts under the previous zoning ordinance may seek to convert the previously approved PUD final general plan or special permit approved pursuant to PUD district regulations to a preliminary PUD plan or final PUD plan as may be appropriate under subsections (a) through (e) of this section.
- (2) *Equivalence of former districts.* For purposes of converting a former PUD district, a final general PUD plan approved under the previous zoning ordinance shall be equivalent to a preliminary PUD plan as described in subsection (e)(3) of this section. A special permit approved under the previous zoning ordinance shall be equivalent to a final PUD plan as described in subsection (e)(4) of this section.
- (3) *Nonconformities.* Nonconformities in properties approved for conversion other than nonconforming land uses shall be deemed to be in compliance with subsection (d) of this section and shall not be subject to the provisions of section 36-401.

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- (4) *Subsequent construction.* All provisions of this chapter shall apply to any development approved for construction subsequent to conversion unless modifications are approved under subsection (d) of this section.
- (5) *Time limit.* A property owner has one year from the effective date of the ordinance from which this section is derived to apply for conversion under this section. The provisions of the former PUD district shall remain in full force and effect until the property is converted or until one year has elapsed. If an application for conversion has not been filed within one year, the provisions of the former PUD district shall lapse and the property shall be fully subject to all provisions of this section.
- (6) *Application process.* An application for conversion shall be processed following the procedures in section 36-34(b). In addition to any information required by section 36-34(b) or administrative procedures pertaining thereto, the applicant shall include a statement describing in detail the degree to which the final PUD plan or special permit previously adopted is in compliance with and differs from the provisions of this section.
- (7) *Fees.* The fee for an application to convert a previously approved PUD final general plan or special permit shall be as determined by resolution of the city council.

Sec. 36-368. Communication towers and antennas.**(a) Purpose.**

- (1) To accommodate the reasonable communication needs of residents and business in the community while protecting the public health, safety, and general welfare of the community;
- (2) To establish appropriate maximum heights of communication towers and antennas, considering their potential adverse impacts on the community at large and the ability to mitigate such impacts;
- (3) To minimize adverse impacts on properties in close proximity to communication towers and antennas;
- (4) To minimize adverse visual effects of communication towers and antennas through careful design and siting standards;
- (5) To avoid potential damage to adjacent properties from communication tower and antenna failure through structural standards and setback requirements; and,
- (6) To maximize the use of existing communication towers, antennas and buildings to accommodate new antennas in order to reduce the number of communication towers needed to serve the community.

(b) Zoning compliance. Communication towers and antennas are allowed as provided in each zoning district and must be in compliance with the provisions of this Ordinance.**(c) Co-Location Requirements.**

- (1) A proposal for a new communication tower or antenna shall not be approved unless the applicant shows that the antenna cannot be reasonably accommodated on an existing communication tower or building.
- (2) The owner of any communication tower exceeding 50 feet in height constructed after the effective date of this Ordinance shall permit the reasonable joint use of the structure for other antennas.

(d) Communication Tower Setbacks.

- (1) Monopoles shall be setback at least 10 feet from all lot lines. Communication towers of all other construction types shall be setback a distance equal to 1.5 times their engineered collapse radius or a distance equal to their height, whichever is less.
- (2) All communication towers shall be located a minimum distance of twice their height from any parcel zoned or used for residential purposes, or zoned mixed-use.
- (3) Communication towers shall not be located between a principal structure and a public street, with the following exceptions:
 - a. In industrial zoning districts, communication towers may be placed between the building and the side lot line abutting a street.
 - b. On sites adjacent to public streets on all sides, communication towers may be placed between the building and either the side lot line abutting a street or the rear lot line.

(e) Location specific regulations for communication towers and antennas.

- (1) Residential Zoning Districts.
 - a. No more than one communication tower is allowed per parcel. Communication towers located on parcels occupied by residential dwellings are only allowed in the rear yard.
 - b. Communication towers and antennas located on property used for residential purposes shall be limited to communication towers and antennas used for the private enjoyment of those on the premises.
- (2) Antennas in the Public Right-of-Way. Antennas may co-locate on existing poles or communication towers in the City, County, or State right-of-way within any zoning district. A City Public Works permit for uses in the public right-of-way and written permission from applicable jurisdictions are required.
- (3) A communication tower that complies with all other requirements of this chapter is allowed as a conditional use in a wetland, public waters wetland, Wetland Conservation Act (WCA) wetland, flood fringe district or general floodplain district. The standards for the issuance of a conditional use permit shall be the general criteria contained in this chapter applicable to all conditional use permits and the specific requirements for conditional uses in the flood fringe and general floodplain districts. The tower shall also comply with all other applicable laws and regulations.

(f) Communication Tower and Antenna Design Requirements. Proposed or modified communication towers and antennas shall meet the following design requirements.

- (1) Communication towers up to 120 feet in height shall be of a monopole type.
- (2) Antenna designs and mounts shall be designed to minimize visual impact.
- (3) Communication Tower Lighting. Communication towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state law or regulation that preempts local regulations.

- (4) Signs, Advertising and Display. The use of any portion of a communication tower for displaying flags, signs other than warning or equipment information signs is prohibited.
- (5) Associated Equipment. Ground equipment associated with a communication tower or antenna shall be housed in a building. The building shall meet the architectural design standards of the Zoning Ordinance, and shall meet the minimum communication tower setback requirements of the underlying zoning district.

(g) Communication Tower Construction and Maintenance Requirements.

- (1) Construction Requirements. All antennae and communication towers erected, constructed, or located within the City shall obtain a building permit. Every communication tower or free-standing antenna shall be protected to discourage climbing of the tower or antenna by unauthorized persons.
- (2) Maintenance. Communication tower and antenna finish and paint shall be maintained in good condition, free from rust, graffiti, peeling paint, or other blemish.

(h) Building-Mounted Antennas.

- (1) Antennas attached to a building shall be no higher than 30 feet above the highest point of the building.
- (2) All building-mounted equipment shall be consistent with the architectural features of the building and be painted to match the color of the building exterior, roof or sky, whichever is most effective, as determined by the Zoning Administrator.

(i) Free-Standing Antennas. Any antenna that is a separate structure and not attached to a building shall comply with all height and other requirements of this Chapter relating to Towers.

(j) Additional Submittal Requirements. In addition to the information required elsewhere in this Code, applications for communication towers or antennas that are permitted with conditions or require a conditional use permit shall include the following supplemental information unless it is determined by the Zoning Administrator that certain information is not required based upon the nature of the proposed antenna or communication tower:

- (1) A report from a qualified and licensed professional engineer that:
 - a. Describes the communication tower height, width including antennas, and design including a cross section and elevation; a site plan which demonstrates all building dimensions and horizontal setbacks of associated equipment, HVAC and decibels, paving, landscaping, security lighting , and fencing.
 - b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - b. Describes the communication tower's capacity, including the number and type of antennas that it can accommodate;
 - d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - e. Includes an engineer's stamp and registration number;
 - f. Includes other information necessary to evaluate the request;

- g. Includes the dimensions and expected quality of the existing and proposed transmission service area;
 - h. Includes the location, depth of utilities and other land lines connected to the communication tower and associated equipment;
 - i. Reviews potential interference with public safety telecommunications equipment, and renders an opinion as to what the interference issues may be resulting from the proposed antenna, and recommendations as to how the interference can be mitigated. The report must also state whether or not the proposed antenna complies with all non-interference requirements of the FCC, a copy of the FCC approval of the antennae in regards to non-interference must be attached.
- (2) For all communication towers which are not used solely for private use antenna, a letter of intent committing the communication tower owner and his or her successors to allow the shared use of the communication tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - (3) Before the issuance of a conditional use permit and/or building permit, proof that the proposed communication tower complies with regulations administered by the Federal Aviation Administration and Federal Communications Commission shall be submitted.
- (k) Discontinued or Unused Communication Towers or Antennas.** All discontinued or unused communication or antennas or portions of communication towers and antennas, together with associated facilities shall be removed within 12 months of the cessation of operations at the site. In the event that a communication tower is not removed within 12 months of the cessation of operations at a site, the communication tower and associated facilities may be removed by the City and the costs of removal assessed against the property.
- (l) Amateur Radio Towers.**
- (1) Communication towers supporting amateur radio antennas shall be exempt from subsections (d)(1) and (d)(2) above. They shall be setback at least 15 feet from any property line.
 - (2) Amateur radio towers must be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
 - (3) As part of any administrative or Conditional Use Permit approval, any requirements of this Chapter may be modified to the extent necessary to provide reasonable accommodations to an amateur radio antenna to the extent required by federal law.
- (m) Legal Non-Conforming Towers.** New or replacement antennas may be installed on a legal non-conforming tower so long as the new or replacement antenna does not increase the overall height of the tower and is designed to minimize visual impact.

(Ord. No. 2367-09, 1-23-09)

(Code 1976, §§ 14:6-7.0--14:6-7.6; Ord. No. 2164-00, 4-17-2000; Ord. No. 2325-07, 5-7-2007; Ord. No. 2367-09, 1-23-2009)

Sec. 36-369. Wind Energy Conversion Systems (WECS).

(a) Purpose. The purpose of this section is to establish minimum requirements for the size, placement and maintenance of wind energy systems by adoption of regulations governing all wind energy systems in the city.

(b) Findings. The City finds that:

- (1) While there is limited opportunity for wind power generation in St. Louis Park, the City may have some sites that have the right characteristics of topography, land cover, and lack of turbulence for the land owner to consider wind energy as an option for sustainability. These sites tend to be large open areas typical of commercial, industrial or park properties.
- (2) Wind energy systems have the potential for nuisance and safety considerations including structural reliability, visual impacts, bird and bat kills, noise, shadow flicker, and ice throw. Therefore, careful consideration must be given when siting a wind energy conversion system.
- (3) Review of regulations may be appropriate as the WECS technology improves and changes resulting in alternative energy systems that are viable for St. Louis Park and greatly diminish the potential for being a nuisance to adjacent properties or the community.

(c) Standards by Zoning District. Table 36-369A lists in which zoning districts WECS are allowed. The table also identifies, by zoning district, the maximum allowed height, the maximum number of WECS allowed per lot and the minimum required lot size.

Table 36-369A				
WIND ENERGY CONVERSION SYSTEM STANDARDS				
District	Height Limit (feet)*		Max. # of WECS per lot*	Minimum Lot Size (acres)
	Permitted, up to	Conditional Use, up to		
C-2	110	170	2	1.5
O	110	170	2	1.5
I-P	110	199	4	1.5
I-G	110	199	4	1.5
* The height and number of systems per lot is dependent on meeting the setback requirements.				

(d) Setbacks. WECS shall meet the following setback requirements:

- (1) At least 110% of the WECS height from all property lines.
- (2) At least 100% of the WECS height from other WECS.
- (3) At least 20 feet from principal buildings.
- (4) The furthest reach of the blade must be at least 30 feet from the ground and any other obstruction.

(e) Design requirements. All WECS shall meet the following design requirement:

- (1) Monopole tower. All towers shall be of a free standing monopole type that does not utilize guyed wires or any other means to support the tower.
- (2) Roof mounting. Roof mounted WECS are prohibited.
- (3) Minimize visual impact. WECS design and location shall minimize visual impact.
- (4) Color and finish. All WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective.
- (5) Tower lighting. WECS shall not be artificially lighted, except to the extent required by the FAA or other federal or state law or regulation that preempts local regulations.
- (6) Signs and displays. The use of any portion of a WECS for displaying flags and signs, other than warning or equipment information signs, is prohibited.
- (7) Associated equipment. Ground equipment associated with a WECS shall be housed in a structure. Structures housing equipment shall meet the architectural design standards of the Zoning Ordinance. Control wiring and power-lines shall be wireless or underground.
- (8) Braking system required. All WECS shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
- (9) Design height. The applicant shall provide evidence that the proposed height of the WECS does not exceed the height recommended by the manufacturer or distributor of the system.
- (10) Interconnection agreement. The applicant shall provide a copy of the utility notification requirements for interconnection, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid.
- (11) Technology standards. WECS must meet the minimum standards of a WECS certification program recognized by the American Wind Energy Association, such as AWEA's Small Wind Turbine Performance and Safety Standard, the Emerging Technologies program of the California Energy Commission, or other 3rd party standards acceptable to the City.

(f) Permits required. In addition to the information and permits required elsewhere in this Code, applications for a WECS shall include the following information unless it is determined by the Zoning Administrator that certain information is not required based upon the nature of the proposed WECS:

- (1) A dimensioned drawing that illustrates the total WECS height, including the footings and tower width.
- (2) A site plan illustrating that the proposed WECS complies with all setbacks and other requirements affecting where a WECS can be located.
- (3) A report that describes decibels at varying wind speeds for a set distance from the turbine, up to the cut-out wind speed.

- (4) Additional information requested by the Zoning Administrator necessary to evaluate the request.

(g) Noise. Audible sound due to wind energy system operations shall comply with the standards governing noise contained in the City of St. Louis Park Code of Ordinances.

(h) Abandonment and decommissioning. If the WECS remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including foundations to below natural grade and transmission equipment.

(Ord. No. 2383-10; 5-28-2010)

Secs. 36-370--36-400. Reserved.

ARTICLE IV. PLANNED UNIT DEVELOPMENTS ^[3]

[Sec. 24-201. Scope and general provisions.](#)

[Sec. 24-202. Purpose.](#)

[Sec. 24-203. Effect on existing zoning; interpretation.](#)

[Sec. 24-204. Permitted uses.](#)

[Sec. 24-205. Density.](#)

[Sec. 24-206. Pre-application meeting.](#)

[Sec. 24-207. Concept plan.](#)

[Sec. 24-208. PUD conditional use permit.](#)

[Sec. 24-209. Approval and implementation.](#)

[Sec. 24-210. Coordination with subdivision regulations.](#)

[Sec. 24-211. Enforcement of development schedule.](#)

[Sec. 24-212. Conveyance and maintenance of common elements.](#)

[Sec. 24-213. Review and amendments.](#)

[Secs. 24-214—24-230. Reserved.](#)

Sec. 24-201. Scope and general provisions.

This article applies to planned unit development conditional use permits. A planned unit development (PUD) is a tract of land developed as a unit under single or unified ownership or control and which generally includes two or more principal buildings or uses but may consist of one building containing a combination of principal and supportive uses. A PUD is intended to allow flexibility in the zoning process to encourage innovative land use and development. This article may allow modification to zoning and subdivision requirements such as lot size and dimensions, rights-of-way and street widths, housing types and building setbacks as well as allow private streets and driveways or zero lot line development.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-202. Purpose.

The purposes of this article are:

- (a) To encourage a more creative and efficient development of land and its improvements through the preservation of natural features and/or desirable site characteristics than possible under strict application of zoning and subdivision requirements.
- (b) To meet the goals and policies of the comprehensive plan and adopted master plans of the city while preserving the health, safety, and welfare of its residents.
- (c) To allow for the potential mixture of compatible uses in an integrated and well-planned area.
- (d) To increase public open space or greenways and/or to ensure concentration of open space into more usable areas and preservation or restoration of natural resources.

- (e) To facilitate the economical and efficient provision of streets and public utilities and to prevent development that would burden the existing tax base or in areas without adequate public improvements.
- (f) To facilitate developments that provide a benefit to the city as a whole, through, but not limited to, higher standards of architectural and site design, enhanced or innovative public infrastructure, sustainable design, provision of life-cycle and/or affordable housing, redevelopment or expanded transportation options.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-203. Effect on existing zoning; interpretation.

The granting of a PUD conditional use permit does not alter in any manner the existing zoning district classification except that building permits shall not be issued which are not in conformity pursuant to an approved PUD conditional use permit unless it is amended, cancelled or modified. Whenever a question arises concerning the interpretation of this article, it shall be the duty of the planning and zoning commission to ascertain all facts concerning the question and forward all data and a recommendation to the city council for a determination.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-204. Permitted uses.

Uses not otherwise allowed in the zoning district are prohibited within a PUD unless specific provisions are made and listed in the PUD conditional use permit or conditions of approval. A PUD may include varied and compatible land uses within one defined development. Uses may include:

- (a) Dwelling units in detached, clustered, semi-detached or attached multi-storied structures or combinations thereof.
- (b) Commercial, office and industrial uses.
- (c) Supporting community facilities and institutional uses.
- (d) Parks, recreational facilities and open space.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-205. Density.

In any PUD the maximum number of dwelling units allowed shall not exceed the base density identified in the land use districts in the comprehensive plan, except that:

- (a) Density bonuses consistent with the comprehensive plan and any adopted city policies may be granted if the proposed project meets certain objectives of the city as identified in the comprehensive plan. These objectives include but are not limited to affordable housing or other identified housing needs, sustainability, increased open space or greenway development.
- (b) Density transfers within the PUD may be allowed provided the project area is at least 40 acres; however, this area requirement may be reduced when the project provides for the dedication of needed public infrastructure.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-206. Pre-application meeting.

Prior to the submission of any plan to the planning and zoning commission, the applicant shall meet with the zoning administrator to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a conditional use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the city staff to facilitate the review.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-207. Concept plan.

The concept PUD plan is optional and provides an opportunity for the applicant to submit a plan to the city generally illustrating the proposed development without incurring substantial cost. The process is also intended to allow the city and general public to identify potential issues and concerns at an early stage of project development.

- (a) The property owner or his agent may meet with the zoning administrator to describe the situation, to be advised of the procedures and to obtain an application form.
- (b) The following exhibits shall be required for a concept PUD application:
 - (1) Complete application form signed by all property owners.
 - (2) All required fees and escrows along with an executed escrow deposit agreement.
 - (3) Statement of all property owners of all land included within the proposal and a list of property owners' names and addresses within 500 feet of the outer boundaries of the property and two sets of mailing labels obtained from Washington County or a title or abstract company.
 - (4) Location map showing the site in relation to the surrounding area and important elements, including major roadways, public facilities and parks.
 - (5) Concept plan(s) or sketch(es) for the proposed project area.
 - (6) Written narrative addressing proposed uses, housing types, density, public or private amenities, parks and open space, phasing, timing as well as the experience and financial capacity of the proposed developers. The narrative should address how the city's values, as identified in the comprehensive plan, are incorporated into the design of the overall development.
- (c) The zoning administrator shall forward the application and required exhibits to the planning and zoning commission for review and consideration. A notice of the planning and zoning commission meeting for consideration of the application shall be sent to all property owners within 500 feet of the outer boundaries of the property in question.
- (d) The planning and zoning commission shall review the proposal and report to the city council its comments and suggestions with regard to the concept PUD plan.
- (e) The zoning administrator shall schedule the public hearing and shall cause notice of the time, place and purpose of said hearing to be published at least ten days prior to the date of the hearing in the official newspaper of the city. The notice shall be mailed to the owners of the property within 500 feet of the outer boundaries of the property in question not less than ten days prior to the date of the hearing.
- (f) The city council shall, after receipt and placing on file the report of the planning and zoning commission and zoning administrator, hold a public hearing on the application. The city council shall also review the concept PUD plan and provide feedback to the applicant. The council will not take any formal action to approve or deny the application. No comments, suggestions,

remarks or observations made by city staff, the planning and zoning commission or the city council shall be binding on the city for future stages.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-208. PUD conditional use permit.

- (a) *Application procedure.* An applicant shall make an application for a PUD conditional use permit following the procedural steps as set forth in article II, division 4, conditional use permits, of this chapter.
- (b) *Required exhibits.* In addition to the requirements in section 24-41, the following exhibits and written narratives shall be submitted to the zoning administrator by the proposed developer as a part of the application for a PUD conditional use permit:
 - (1) Explanation of the character of the planned development and the manner in which it has been planned to take advantage of the PUD regulations, including a list of all deviations from the standard zoning regulations and an explanation as to why these deviations provide a public benefit.
 - (2) Explanation of how comments on the concept PUD plan have been incorporated into the design of the general development plan, if applicable.
 - (3) General indication of the expected schedule of development including progressive phasing and time schedule.
 - (4) Any additional information requested by the city staff, the planning and zoning commission and city council that may be required for clarification of the proposed project.
- (c) *Preliminary plat.* Unless waived by the zoning administrator, the applicant shall also submit a preliminary plat and all the necessary documentation as required under chapter 21 of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the PUD conditional use permit and preliminary plat and any potential rezoning of property may be combined into one hearing or may be held concurrently.
- (d) *Additional findings.* In addition to the criteria and standards set forth in article II, division 4 of this chapter for the granting of conditional use permits, the following additional findings shall be made before the approval of the PUD conditional use permit:
 - (1) The proposed PUD is in conformance with any adopted master plan for the project area.
 - (2) The PUD is designed to form a desirable and unified environment within its own boundaries.
 - (3) The development plan provides for the creation, preservation or restoration of natural resources such as native vegetation, valuable habitat, lakes, streams, wetlands, shorelands, flood plains, woodlands, steep slopes and similar areas.
 - (4) The PUD is consistent with the planned and efficient provision of public improvements and would not burden the existing tax base by increasing development or in areas without adequate infrastructure or public facilities.
 - (5) The PUD can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
 - (6) The tract under consideration is under single ownership or control.
 - (7) Single-family detached units or clustering of housing units may be allowed as a PUD in areas providing urban services, or in the R-2 estate district, providing parks and open space are an integral part of the plan.

- (8) Each phase of the development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
- (9) Common elements proposed as part of the PUD are appropriate for the scale, location, shape, size, density and topography of the development and must be suitably improved for the intended use(s) except that significant natural features may be preserved or restored.
- (10) The project area is at least ten acres in size unless the applicant can show that a PUD of less acreage meets the standards and purposes of the comprehensive plan and preserves the health, safety and welfare of the citizens of the city and that all of the following conditions exist:
 - a. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.
 - b. The proposal would benefit the area surrounding the project to greater degree than development allowed within the underlying zoning district(s).
 - c. The proposal would provide mixed land use and/or site design flexibilities while enhancing site or building aesthetics to achieve an overall, workable higher quality of development than would otherwise occur in the underlying zoning district.
 - d. If applicable, the proposal would increase open or green space or ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site than would otherwise occur in the underlying zoning district.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-209. Approval and implementation.

- (a) The city council shall review the PUD conditional use permit application. If the PUD is approved by the city council, the zoning administrator shall issue a conditional use permit to the applicant including conditions of approval and record it in the office of the county recorder.
- (b) The applicant shall also submit a final plat for all or that portion to be platted. Such plats may be submitted in smaller increments as may be economical to finance or construct at one time.
- (c) Any final plat shall conform to the approved PUD conditional use permit and approved preliminary plat. This plan shall include any recommended changes by the planning and zoning commission or city council to the original PUD application and original preliminary plat.
- (d) Outlots to be dedicated for park, ponding or other purposes shall be deeded to the city, via warranty deed or other deed as approved by the zoning administrator, before the final plat is released for recording.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-210. Coordination with subdivision regulations.

- (a) It is the intent of this article that subdivision review under chapter 21 be carried out simultaneously with the review of a planned development under this article.
- (b) The plans required under this article must be submitted in a form, which will satisfy the requirements of chapter 21 for the preliminary and final plats.
- (c) Flexibility of design standards and criteria of chapter 21 may be allowed as part of a planned unit development.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-211. Enforcement of development schedule.

The construction and provisions of all of the common open spaces and public and recreational facilities which are shown on the approved PUD must proceed at the same phase of the construction of dwelling units. From time to time the zoning administrator may review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If he or she shall find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, he or she shall forward this information to the city council, which may modify or revoke the PUD permit.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-212. Conveyance and maintenance of common elements.

- (a) All land shown on the approved PUD as common open space must be conveyed to a homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the homeowners association or similar organization subject to covenants which restrict the common open space to the uses specified on the PUD conditional use permit, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
- (b) If a homeowners association is created, the city may require the applicant to submit any required homeowner association documents at the time of the first final plat of development to the city attorney and city staff which explain:
 - (1) Ownership and membership requirements.
 - (2) Articles of incorporation and bylaws.
 - (3) Time at which the developer turns the association over to the homeowners.
 - (4) Approximate monthly or yearly association fees for homeowners.
 - (5) Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Sec. 24-213. Review and amendments.

- (a) From time to time the zoning administrator may review PUDs within the city and may make a report to the city council on the status of non-compliance for a particular PUD. If the zoning administrator finds that the development has not commenced within one year after the original approval of the conditional use for the PUD, the zoning administrator may recommend that the city council extend the time or revoke the conditional use permit as set forth in article II, division 4 of this chapter. Prior to cancellation or revocation of this permit, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- (b) For additional phases of the PUD, if within five years the project has not progressed, the zoning administrator may recommend that the city council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the PUD, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- (c) Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time the PUD was approved.

- (d) Approval of the planning and zoning commission and city council shall be required for other substantial changes such as change in use; rearrangement of lots, blocks and building tracts; significant increase in lot coverage; major change in traffic circulation; or reduction in green space, open space, parking or stormwater management. These changes shall be consistent with the purpose and intent of the approved PUD conditional use permit.
- (e) Any amendment to the PUD shall require the same procedures as for the application for a conditional use permit as set forth in article II, division 4 of this chapter.

(Ord. No. 1860, § 1860.01, 10-10-2012)

Secs. 24-214—24-230. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 1860, § 1860.01, adopted October 10, 2012, amended article IV in its entirety to read as herein set out. Former article IV, §§ 24-201—24-215, pertained to similar subject matter, and derived from Ord. Mins. of 6-27-2001; Ord. No. 1754, § 1754.03, 9-22-2004; No. 1803, § 1803.01, 5-14-2008; Ord. No. 1825, § 1825.14, 10-14-2009. ([Back](#))

505.45 PUD Planned Unit Development Zoning District

Subdivision 1. Purpose

The purpose of the Planned Unit Development (PUD) zoning district is to provide greater flexibility in the development of neighborhoods and non-residential areas in order to maximize public values and achieve more creative development outcomes while remaining economically viable and marketable. This is achieved by undertaking a collaborative process that results in a development outcome exceeding that which is typically achievable through the conventional zoning district. If a development proposal does not demonstrate significant public value benefits above and beyond those achievable under a conventional zoning district, the City reserves the right to deny the PUD rezoning and direct the developer to re-apply under the standard applicable zoning district.

Subd. 2. Definitions

Conventional development is defined as a development proposal that meets the minimum requirement of the City's ordinances regulating development.

Open space means land or common areas reserved for parks, walking paths or other natural uses.

Open space, useable means open space which will be publicly or privately owned and maintained by a homeowners association, excluding wetlands designated by federal or state agencies, areas below the 100-year ordinary high water elevations (OHW) and streets and roadways.

Life-cycle housing refers to the range of housing options that meet people's preferences and circumstances at all of life's stages. Such options include both rental and for-purchase homes that are affordable for low and median-income buyers and for the move-up market.

Public values collaborative development is a process that results in a development plan in which clearly defined public values are achieved in exchange for greater flexibility on conventional development requirements.

Subd. 3. Reflection on the official zoning map

PUD provisions provide an optional method of regulating land use which permits flexibility in the uses allowed and other regulating provisions. In some circumstances, however, rules and regulations governing the underlying zoning district may apply within the PUD. As such, approval of a PUD and execution of a PUD agreement shall require the property in question be rezoned to PUD, but the denotation on the official zoning map shall also illustrate the underlying zoning district. Once a PUD has been granted and is in effect for a parcel, no building permit shall be issued for that parcel which is not in conformance with the approved PUD plan, the building code, and with all other applicable city code provisions.

All PUD rezonings approved prior to the effective date of this section shall retain their zoning classifications of PUD, and shall continue to be governed by the ordinance and resolutions which created these areas.

Subd. 4. Appropriate Use of the PUD rezoning

A rezoning to PUD may be requested for any residential or commercially zoned area. PUDs are prohibited in the industrial districts.

- (a) Rezonings to PUD will not be considered for areas less than 8 acres of land in single ownership or control, except in the following circumstances:
 - (1) Natural features of the land are such that development under standard zoning regulations would not be appropriate in order to conserve such features;
 - (2) The land is intended to be developed in accordance with a prior PUD adjacent to or across the street from the subject property; or
 - (3) The PUD process is desirable to ensure compatibility and careful consideration of the effect of a development on surrounding land uses.

(b) Application for a PUD may be made only by the owner of the land involved in the PUD application, or an option/contract holder provided the application is accompanied by fully executed agreements or documents from the owner in a form acceptable to the city.

Subd. 5. Permitted uses.

Uses within a PUD shall be governed by the ordinance establishing the PUD and by the conditions, if any, imposed by the city in the approval process. If a specific use is not established or addressed by a PUD ordinance, said use shall be governed by the underlying zoning district regulations designated by the comprehensive plan.

Subd 6. Expectations of a development seeking a rezoning to PUD

The provisions of this section are intended to achieve the following public values within a PUD zoning district and associated subdivision:

- (a) Maintain the sense of open space character of the community. Open space shall be of a size, shape, location, and usability for its proposed purpose. Whenever possible, common open space shall be linked to the open space areas of surrounding developments;
- (b) Preserve natural open spaces for their aesthetic and ecological values and provide buffering between developments and adjacent roadways;
- (c) Maximize the use of ecologically-based approaches to stormwater management, restore or enhance on-site ecological systems, and protect off-site ecological systems including the application of Low Impact Development (LID) practices;
- (d) Provide high-quality park, open space, and trail opportunities that meet or exceed the provisions of the Parks, Trails, and Open Space Plan;

(e) Minimize the extent of the development footprint and impervious surfaces to the extent possible to reduce initial infrastructure costs and long-term maintenance and operational costs;

(f) Ensure long-term stewardship of natural resources for all lands set aside as parks, open spaces, and other forms of conservation lands;

(g) Provide a convenient and efficient multi-modal transportation system to service the daily needs of residents at peak and non-peak use levels, where possible;

(h) Foster economic and cultural diversity by providing a complementary mix of lifecycle housing;

(i) Encourage conservation of energy and other resources to enhance the prospects for creating a sustainable community;

(j) Promote aesthetically-pleasing design and high quality construction consistent with the community's desired sense of place and quality of life expectations and harmonious with the natural setting. A PUD shall strive to creatively integrate multiple structure types and land uses in a harmonious plan that preserves, enhances, and protects natural features. The integrated design shall include elements such as building orientation and materials, utilities, parking areas, traffic and pedestrian circulation, and open spaces. A PUD which only involves one building or housing type, such as all detached or all attached units, shall not necessarily be considered as inconsistent with the stated purposes and objectives of this section and shall not be the sole basis for denial or approval. Architectural style of buildings shall not be the sole basis for denial or approval of a plan. However, the overall appearance and compatibility of individual buildings to other site elements or to surrounding development will be primary considerations in the review stages of the planning commission and city council;

Subd. 7. Areas of Flexibility

(a) The City shall consider an increase in the number of overall units and associated reductions in lot width and size, if the PUD provides substantially more site amenities and public values, as outlined in subdivision 6, than could be achieved in a conventional residential development for the applicable zoning district;

(b) The City shall consider a decrease in the amount of road width required or right-of-way requirements if the PUD provides substantially more site amenities, as outlined in subdivision 6, than are found in a conventional residential development for the applicable zoning district. Specifications and standards for streets, utilities, and other public facilities shall be at the discretion of city council and must protect the health, safety, comfort, aesthetics, economic viability, and general welfare of the city.

(c) The City shall consider flexibility with regard to lot size, width, and depth when reviewing a PUD rezoning request. Specifications and standards for lots shall be at the discretion of city council, and shall encourage a desirable living environment which assists in achieving the goals set out for PUDs.

(d) The City shall consider flexibility in the phasing of a PUD development. Changes to the proposed staging or timing of a PUD may be approved by the city council when necessary, or on the showing of good cause by the developer.

Subd. 8. PUD Procedure

All requests for rezoning to Planned Unit Development shall follow the steps outlined below.

(a) Collaborative process and project goal setting

1) The applicant shall meet with the city staff for a pre-application conference prior to submittal of a concept to the city. The primary purpose of the conference is to allow the applicant and staff an opportunity to review the comprehensive plan and to make a preliminary determination if the proposal is conducive to a PUD rezoning.

2) City staff and the applicant shall work together to schedule a concurrent worksession with policymakers of the city (planning commission, parks commission, and city council) to discuss the public values on the site, using the established public values in subdivision 6 of this section as a guideline. The result of this meeting will be a public values statement.

3) At an appropriate point during the process, the applicant shall hold a neighborhood meeting. The city and all owners or property within 1,000 feet of the PUD (or a larger area as determined by the city) shall be given notice of the meeting. The purpose of the meeting is to inform the neighborhood of the proposed PUD, discuss the concepts and basis for the plan being developed and to obtain information and suggestions from the neighborhood.

4) The applicant shall be responsible for the costs incurred by the city for attorney, engineering, or other consultant fees during these pre-application activities.

(b) PUD Concept Plan Review

1) Prior to formal application to the city, the applicant shall prepare an informal concept plan and present it to the planning and parks commission and city council at a concurrent worksession, as scheduled by staff. The purpose of this meeting is to determine if all parties are on a common track and if the development reflects the stated public values;

2) Formal application shall be made to the city, and a thorough review and staff report with a recommendation shall be forwarded to the Planning and Parks Commission;

3) The parks commission shall review the PUD rezoning request, and make a recommendation with regard to the park layout, amount of land dedicated (or cash in-lieu), and the proposed park and trail improvements within the concept plan;

4) The planning commission shall review the PUD rezoning request, and make a recommendation to the City Council with regard to the plat layout, design, density, deviations, and achieved public values of the concept plan;

5) The Council shall consider the recommendations of the parks and planning commissions and provide feedback with regard to the proposed deviations, proposed public values, and any other aspect of the application. The Council shall make a motion that the applicant move forward with the rezoning request, or direct the applicant to submit under the conventional zoning districts.

6) Inter-agency partnerships. After the City policymakers have reviewed and commented on the Concept PUD plan, city staff shall meet with other agencies, as applicable, to explore opportunities of partnership to enhance the stated public values.

(c) PUD Rezoning Review

1) The planning department shall review an application for a rezoning to PUD in conjunction with a preliminary plat application under the subdivision regulations. Staff will utilize the criteria established in subdivision 6 of this section as well as the public values statement to formulate a recommendation regarding the rezoning to the planning commission and city council. Staff shall draft a proposed ordinance to rezone the subject property and present it to the planning commission and city council;

2) The planning commission shall hold a public hearing and consider the application's consistency with the intent and purpose of the PUD and comprehensive plan goals. The planning commission shall make recommendations to the city council on the merit, needed changes, and suggested conditions of the proposed rezoning and PUD plan;

3) In approving or denying the ordinance to rezone the subject property to PUD, the city council shall make findings on the following:

- (i) The PUD plan is consistent with the city's comprehensive plan;
- (ii) The PUD plan is tailored to the specific characteristics of the site and achieves a higher quality of site planning and greater public benefits than would be achieved under conventional provisions of the ordinance;
- (iii) The PUD plan preserves and enhances natural features and open spaces;
- (iv) The PUD plan maintains or improves the efficiency of public streets, utilities, and other public services;

(v) The PUD plan results in development compatible with existing adjacent and future guided land uses;

(vi) How the PUD plan addresses the purpose and intent of the PUD rezoning, as stated in subdivision 1 of this section.

4) Duration of a PUD rezoning action. A final plat that conforms with the preliminary plat and associated PUD rezoning ordinance shall be submitted within 180 days of approval of the ordinance and preliminary plat approval, unless otherwise extended by the city council. If the applicant fails to submit a final plat application or extension request within this time period, the zoning shall revert back to the underlying zoning district through a rezoning ordinance adopted by the city council.

Subd. 9 Submittal Requirements

(a) Pre-application process. A site analysis shall be submitted in anticipation of the pre-application activities, including the following information:

- 1) Location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
- 2) Indicate the base flood elevation level and show the general location of floodways and/or flood fringe areas;
- 3) Delineation of the ordinary high water levels of all water bodies;
- 4) Delineation of the shoreland district boundary (if applicable);
- 5) A plan, including detailed information regarding the layout of the lots and outlots, the proposed parks, trails, open space, and other common areas, and a yield plan which indicates how the plat would be designed under conventional zoning standards;

(b) Concept PUD Plan. An applicant should submit the following information for the formal Concept PUD plan to be considered complete:

- 1) A completed land use application and payment of applicable fees;
- 2) A PUD Concept Plan, including detailed information regarding the layout of the lots and outlots, the proposed parks, trails, open space, and other common areas, and a yield plan which indicates how the plat would be designed under conventional zoning standards;
- 3) A written narrative which outlines how the plan will meet the purpose of the PUD rezoning, how the plan addresses the public values, as stated in subdivision 6 and in the public values statement, and what deviations from code are being requested;

- 4) An updated site analysis, as outlined above;
- 5) Any other additional information as required by staff.

(c) PUD Rezoning Plan. The following information shall be submitted in order to for an application to be considered complete:

- 1) A completed land use application and payment of applicable fees;
- 2) A completed preliminary plat application, as outlined in the subdivision regulations section of this chapter;
- 3) A PUD Rezoning Plan, including detailed information regarding the layout of the lots and outlots, the proposed parks, trails, open space, and other common areas, and a yield plan which indicates how the plat would be designed under conventional zoning standards;
- 4) A written narrative which outlines how the plan will meet the purpose of the PUD rezoning, how the plan addresses the public values, as stated in subdivision 6 and in the public values statement, and what deviations from code are being requested;
- 5) An updated site analysis, as outlined above;
- 6) If it is proposed to develop a project over a timeframe exceeding two years, the applicant may request preliminary approval of a master PUD plan for an entire project to be completed in phases;
- 7) Three sets of labels listing the names and addresses of all property owners within 1,000 feet of the subject property. Labels shall be obtained from Hennepin County;
- 8) Any other additional information, as requested by staff

Subd. 10. Development agreement.

Upon approval of the PUD plan and the Final Plat, the city and applicant shall work together to prepare a development agreement which references all PUD plans, specifies permitted uses, allowable densities, development phasing, required improvements, completion dates for improvements, the required letter of credit, all required development fees, escrows, and warranties, and any other information deemed necessary by the city.

Subd. 11. PUD Plan amendments.

Approved PUD Plans may need to be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer. At such a

time, the applicant shall make an application to the city for a PUD amendment. All such amendments will be processed as one of the following:

(a) Administrative amendment. The city planner may approve minor changes in the location, placement, and height of buildings if such changes are required by engineering or other circumstances not foreseen at the time the final plat and plan were approved, provided the changes are minor and conform to the review criteria applied by the planning commission and city council. Under no circumstances shall an administrative amendment allow additional stories to buildings, additional lots, or changes to designated uses or open space established as part of the PUD.

(b) PUD adjustment. In circumstances where an adjustment to the number or size of lots, proposed additional stories, or changes uses or open space, an adjustment to a PUD may be made through review and approval by the city council with or without referral to the planning commission. To qualify for this review, the minor adjustment shall not:

- 1) Eliminate, diminish or be disruptive to the preservation and protection of sensitive site features.
- 2) Eliminate, diminish or compromise the high quality of site planning, design, landscaping or building materials.
- 3) Alter significantly the location of buildings, parking areas or roads.
- 4) Increase or decrease the number of residential dwelling units by more than five percent.
- 5) Increase the gross floor area of non-residential buildings by more than three percent or increase the gross floor area of any individual building by more than five percent (residential lots not guided for specific structure sizes are excluded from this requirement).
- 6) Increase the number of stories of any building.
- 7) Decrease the amount of open space or alter it in such a way as to change its original design or intended function or use.
- 8) Create non-compliance with any special condition attached to the approval of the final PUD plan.

(c) PUD Plan amendment. Any change not qualifying for an administrative amendment or a PUD adjustment shall require a PUD amendment. An application to amend a PUD shall be administered in the same manner as that required for an initial PUD beginning at preliminary plan. If such an amendment involves changing a plat that has been through final plat approval, a new final plat application must be made, per Section 500.19 subdivision 3(g).

Subd. 12. Cancellation.

A PUD shall only be cancelled and revoked upon the city council adopting an ordinance rescinding the ordinance approving the PUD. In any event, it shall not be necessary for the council to find the creation of a PUD district was in error.

Subd. 13. Administration.

In general, the following rules shall apply to all PUDs:

(a) No requirement outlined in the PUD process shall restrict the city council from taking action on an application if necessary to meet state mandated time deadlines;

(b) The city may require that PUD plans be certified at the time of submittal and/or upon completion of construction;

(c) No building permit shall be granted for any building on land for which a PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed PUD plan;

(d) In the event any real property in the approved PUD agreement is conveyed in total, or in part, the buyers thereof shall be bound by the provisions of the approved final PUD plan constituting a part thereof; provided, however, that nothing herein shall be construed to create non-conforming lots, building sites, buildings or uses by virtue of any such conveyance of a lot, building site, building or part of the development created pursuant to and in conformance with the approved PUD.

