

## Chapter 18, Planned Unit Development (PUD)

### SECTION 18.00 DESCRIPTION AND PURPOSE

- A. The use, area, height, bulk, and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain situations, these requirements might result in a less desirable situation than if a controlled degree of flexibility were allowed. The Planned Unit Development (PUD) is intended to permit such flexibility in the development of planned areas for various compatible uses allowed by the Zoning Ordinance.
- B. It is intended that the PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, either within or adjacent to the PUD.
- C. The provisions of this Chapter are not intended as a device to ignore or circumvent the Zoning Ordinance or land use planning on which it has been based. Rather, provisions in this Section are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Chapter.

### SECTION 18.01 OBJECTIVES AND QUALIFYING CONDITIONS

- A. The following objectives shall be met by an application for a PUD:
  - 1. To provide desirable living, shopping, and working environments by preserving as much of the natural character of the property as possible including, but not limited to, open space, prime farmland, stands of trees, scenic vistas, water features, wetlands, floodplains, hills, and similar assets.
  - 2. To encourage the provision of usable open space and recreational, commercial, and other support facilities within a reasonable distance of all living units.
  - 3. To encourage a more creative and imaginative development design.
  - 4. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the Planning Commission.
  - 5. To promote flexibility in design and location of structures and uses.
  - 6. To promote the efficient use of land to facilitate a more economic arrangement of buildings, vehicular and pedestrian circulations systems, land use, and utilities.
  - 7. To combine and coordinate architectural styles, building forms, and building relationships within the PUD.
  - 8. To provide opportunities for added development incentives in return for a site design that is consistent with the goals and policies of the Eureka Charter Township Master Plan.
- B. Qualifying Conditions
  - 1. An applicant desiring PUD shall demonstrate that the PUD will result in a recognizable and

substantial benefit to the ultimate users and occupants of the project and to the community as a whole, where such benefit would otherwise be unfeasible or unlikely under conventional zoning. Such benefit may include, but not be limited to, the preservation of important natural features and open lands, the provision of a complimentary mix of land uses, and/or innovation in project design.

2. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all affected properties.
3. The property which is the subject of a PUD application must be a minimum of 10 contiguous acres in total area. The Planning Commission may permit a PUD on lesser area, but not less than 5 acres, if the proposed PUD substantially furthers the intent of the Objectives and Qualifying Conditions in Section 18.00 and 18.01.
4. A PUD shall result in a development that is substantially consistent with the goals and objectives of the Township's Master Plan.
5. To be considered as a PUD, the proposed development must fulfill at least one of the following conditions:
  - a. The PUD contains two or more separate and distinct uses, for example, single-family and multiple-family dwellings;
  - b. The PUD site exhibits significant natural features encompassing at least 25% of the land area of the PUD which will be preserved as a result of the PUD plan;
  - c. The PUD is designed to preserve in perpetuity at least 35% of the total area of the site in open space.
  - d. The PUD site exhibits significant natural features (e.g. wetlands, surface water bodies, steep topography, and other such natural features) over a majority of the site rendering compliance with the strict requirements of this Ordinance impractical.

## SECTION 18.02 APPLICATION PROCEDURES

- A. Application. An application for a PUD shall be submitted and acted upon in accordance with the procedures of Chapter 19, Special Land Use, except that Township Board approval shall be required as outlined in subsections C - E below. All applications for a PUD shall include the information required by Section 19.02(B) of this Ordinance, and the following additional information:
  1. A table or description of all deviations which may be requested from the applicable Ordinance regulations.
  2. A written narrative that describes how the Purpose and Intent, Qualifying Conditions, and Standards of Approval of this Chapter are or will be met.
- B. Review and Approval. In reviewing a PUD application, the Planning Commission shall consider:
  1. The application for a PUD;

2. Comments received at the public hearing;
  3. The site plan;
  4. Other materials submitted in relation to the application;
  5. The requirements of this Chapter; and
  6. The criteria for approval stated in Section 18.03.
- C. After the public hearing and consideration of the above factors, the Planning Commission shall recommend that the Township Board deny, approve, or approve the PUD application with conditions. The Planning Commission's decision shall state the basis for said recommendation and any conditions relating to an affirmative decision.
- D. Following receipt of the Planning Commission's recommendation, the Township Board shall hold a public hearing on the proposed PUD. Notice of the public hearing shall be provided pursuant to Section 29.03 of this Ordinance. Following the public hearing, the Township Board shall deny, approve, or approve with conditions the proposed PUD. The Township Board's decision shall be written and contain findings of fact relative to the basis for the decision and any conditions of approval (if approved).
- E. The Township Board may impose conditions with the approval of a PUD that are necessary to ensure compliance with the standards of approval stated in this Chapter and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the PUD approval and subject to enforcement by the Zoning Administrator.
- F. Either concurrently with the PUD application, or upon approval by the Planning Commission (with or without conditions), the applicant may apply for preliminary plat approval, condominium approval, and private road approval, as applicable.

### **SECTION 18.03 BASIS OF DETERMINATION**

In order to approve a PUD the Planning Commission and Township Board shall find that all of the following standards are met:

1. The proposed PUD complies with the Intent and Purpose and all Qualifying Conditions of Sections 18.01 and 18.02 of this Chapter, respectively.
2. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with, and further implement the policies of, the adopted Eureka Charter Township Master Plan.
3. The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
4. The proposed PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.

5. The proposed PUD shall not place demands on public services and facilities more than current or anticipated future capacity.
6. The proposed PUD shall satisfy all applicable local, state, and federal statutes and regulations.

#### SECTION 18.04 PERMITTED USES AND LARGE PARCEL PUDS

A. The following uses may be permitted, either individually or in combination, in accordance with the applicable PUD requirements:

1. Agricultural (AG) District:

- a. Single-family detached dwellings – limited to the equivalent of the number of lots permitted in compliance with the Land Division Act, PA 591 of 1996, amended by PA 87 of 1997, and lot standards of this Ordinance.
- b. Public or private golf courses (minimum 18-hole course of regulation size).

2. Rural Residential, Suburban Residential, and Manufactured Housing Residential Districts:

- a. Single-family detached dwellings.
- b. Public parks and playgrounds.
- c. Public and private schools.
- d. Public or private golf courses (minimum 18-hole course of regulation size).

3. Urban Residential District:

- a. Single-family detached dwellings (minimum 18,000 square feet of lot area per unit).
- b. Two-family dwellings (minimum 36,000 square feet of lot area per two-family dwelling).
- c. Multiple-family dwellings (maximum four units per acre).
- d. Public parks and playgrounds.
- e. Commercial uses that are clearly accessory and compatible with a proposed residential PUD and that form an integral part of the PUD, subject to the following:
  - 1) The area devoted to commercial buildings and parking lots used for commercial purposes shall not exceed 25% of the total site area.
  - 2) Unless otherwise permitted by the Planning Commission, the commercial aspects of the project shall not begin until at least 40% of the proposed residential units are constructed.

4. Commercial Districts:

- a. Any use permitted by the underlying Zoning District.
- b. Multiple family dwellings that are designed as an integral part of the project, including mixed use buildings, subject to the following:
  - 1) The area devoted to residential buildings and residential parking lots shall not exceed 50%

of the total site area.

2) Unless otherwise permitted by the Planning Commission, the residential aspects of the project shall not begin until at least 40% of the proposed commercial uses are constructed.

3) Residential density shall not exceed four units per acre.

5. Industrial District: Any use permitted by the underlying Zoning District.

**B. Large Parcel PUD**

1. Size, Location, and Uses. A PUD possessing not less than 100 acres shall be permitted in any Zoning District and may be permitted to combine any of the uses permitted in the Agricultural, Rural Residential, Suburban Residential, or Urban Residential districts. Uses of the Commercial District may also be included, provided said uses shall not exceed 25% of the total site area.

2. Design Standards. Unless otherwise provided in Section 18.06, a large parcel PUD shall meet the following design standards:

a. Residential Uses – Dimensional standards shall meet the residential standards of the UR District (Section 6.2).

b. Commercial Uses – Dimensional standards shall meet commercial standards of the OSC-2 District.

**SECTION 18.05 GENERAL DESIGN STANDARDS**

A. Net Developed Area. The total amount of land to be used for the calculation of the permitted density shall be the net developable area. Said area shall be determined by taking the total site area and subtracting lands used or dedicated for public easements and public or private road right-of-way. Additionally, 50% of that portion of the site area classified as regulated wetland or floodplain, and 50% of that portion of the site area devoted to an existing surface water body (e.g. lake, river, stream, etc.) shall also be subtracted from the total site area when calculating net developed area.

B. Setbacks. Unless otherwise stipulated by Section 18.06, the minimum setback for all lots or parcels shall comply with the underlying Zoning District.

C. Maintenance of Natural Vegetation. PUDs shall be developed so as to preserve as much open space and natural vegetation as is practicable. If the site is void of such vegetation, all open space and non-developed areas shall be landscaped as approved by the Planning Commission. The PUD application shall include a long-term maintenance plan detailing how open space and other non-developed areas will be maintained.

D. Site and Building Design. The site and buildings shall be designed and constructed in a harmonious, integrated manner with similar or compatible architectural and site development elements.

E. Residential Density. Unless otherwise stipulated by Section 18.06, the residential density shall not exceed that of the underlying Zoning District.

- F. Utilities. All electric, television cable, telephone transmission wires, or other utility lines within the PUD shall be placed underground.
- G. Signs. Signs shall meet the standards of the underlying Zoning District.
- H. Service Drives. As required by the Planning Commission, service drives shall be constructed to permit the internal flow of traffic from one site to an adjoining site, as opposed to use of the adjoining public road for purposes of cross-site access. In the event that adjoining sites are undeveloped, the applicant shall provide a service drive easement within which a future service drive may be constructed.
- I. Shared Drive. Provisions for shared driveways by individual units may be made as appropriate to minimize removal of vegetation or alteration of existing slopes.

**SECTION 18.06 DEVELOPMENT AND DENSITY INCENTIVES**

To encourage the establishment of projects highly consistent with Sections 18.1 and 18.2, the PUD regulations offer opportunity for certain development and density incentives. The incentives requested by an applicant must be fully detailed and described as part of the PUD application.

Provision shall be made, by restrictive covenant, master deed or other appropriate legal means, so that areas of the PUD designated as open space and considered in determining overall density of the project shall remain as such in perpetuity. Areas counted as open space for one development shall not be counted as open space for a different development.

Development and density incentives are subject to approval by the Planning Commission. In approving development and density incentives, the applicant must demonstrate to the satisfaction of the Planning Commission that all requisites for receipt of such incentives have been met.

- A. Site Density or Development Intensity. The overall density or development intensity of a PUD shall not exceed that which would be permitted in the underlying zoning district at the time of the PUD application. The overall density or development intensity shall be determined through a parallel plan. The applicant shall prepare, and present to the Township for review, a parallel plan in accordance with the following requirements:
  1. The parallel plan shall indicate the maximum residential density in terms of dwelling units per acre or the maximum square footage of non-residential construction, which meet all standards for lot width and setbacks as normally required by the underlying zoning district;
  2. The parallel plan shall exclude areas subject to easements, restrictions, and existing dwellings;
  3. The parallel plan shall contain an area which conceptually would provide sufficient area for stormwater detention;
  4. The parallel plan shall be consistent with state, county, and Township requirements and design criteria.

The Planning Commission shall review the design and determine the number of dwellings or building square footage that could be feasibly constructed within the underlying zoning district in accordance with the parallel plan and that would constitute a plan that the Township would normally approve

without the open space option. This number of units or square footage, as determined by the Planning Commission, shall be the maximum number of dwelling units or square footage allowed in the PUD. The regulatory flexibility may be allowed to cluster dwellings on smaller lots or mix compatible uses, provided the overall density or intensity does not exceed that determined in the parallel plan, unless a density bonus is provided below.

B. Residential Density Bonus. In order to preserve the maximum amount of open space, the regulation of PUDs provides for an increase in the total number of dwelling units according to the following schedule.

1. A PUD providing at least 40% of open space shall be entitled to an additional 15% of the number of dwelling units otherwise permitted in this Chapter.
2. A PUD providing between 41% and 60% of open space shall be entitled to an additional 20% of the number of dwelling units otherwise permitted in this Chapter.
3. A PUD providing more than 60% of open space shall be entitled to an additional 25% of the number of dwelling units otherwise permitted in this Chapter.

In approving an increase in density, the Planning Commission may permit a decrease in the lot area requirements (lot size, lot width, and setbacks) of the respective dwelling units from those normally required by the underlying Zoning District or this Chapter.

C. Off-Street Parking Reduction and Joint Use of Parking

1. The Planning Commission may permit a reduction in off-street parking not to exceed 25% of the parking normally required for the proposed use.
2. To help satisfy parking requirements, the Planning Commission may permit the joint use (sharing) of parking lots among contiguous, commercially-developed parcels, provided the applicant demonstrates that the said shared parking arrangement will satisfy the parking needs of all users during normal periods. To authorize the joint use of parking lots, the applicant must provide documentation of a binding agreement among applicable parties specifying the right to share parking and a workable maintenance agreement.

D. Joint Use of Drainage Facilities. Subject to the approval of the Montcalm County Drain Commissioner, the Planning Commission may permit the joint use of surface water drainage detention and retention facilities (e.g. sharing of such facilities on an area-wide basis).

## SECTION 18.07 PROJECT PHASING

A. Where a project is proposed for construction in phases, the project shall be designed so that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure the protection of natural resources and the health, safety, and welfare of the users of the PUD and residents of the Township. Each phase of a PUD project requires the submittal of a site plan and review under Chapter 4 of this Ordinance, the requirements of this chapter, and other applicable Township Ordinances.

- B. Prior to the construction of future phases, the applicant shall provide a site plan to the Zoning Administrator for purposes of determining that all conditions of the phase to be constructed, as originally approved, will be met.

#### **SECTION 18.08            PERFORMANCE GUARANTEES**

In approving a PUD, the Planning Commission or Township Board may require a performance guarantee as authorized by Section 29.06 this Ordinance.

#### **SECTION 18.09            PUD AMENDMENTS**

Amendments to an approved PUD may be permitted under the following circumstances:

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes may include the following:
  - 1. Reduction of the size of any building or sign;
  - 2. Movement of buildings or signs by no more than 10 feet;
  - 3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
  - 4. Changes in floor plans, of up to 5% of the total floor area, which do not alter the character of the use or increase the amount of required parking;
  - 5. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
  - 6. Changes required or requested by the Township, the county, or other state or federal regulatory agency in order to conform to other laws or regulations;
  - 7. Change of phases or sequence of phases, only if all phases of the PUD have received final approval.
  - 8. Other changes determined by the Zoning Administrator to be minor changes.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the final development plan and shall be processed in the same manner as the original PUD application.

#### **SECTION 18.10            COMMENCEMENT OF CONSTRUCTION**

- A. For each approved PUD, construction of at least the first phase shall be commenced and shall proceed meaningfully toward completion within one year from the date of the approval of the final development plan by the Planning Commission.
- B. The owner or applicant of the PUD may apply to the Planning Commission for one extension of the



original approval for an additional term not to exceed one year. In considering such authorization, the Planning Commission shall consider the following:

1. Whether the PUD has encountered unforeseen difficulties beyond the reasonable control of the owner/applicant.
  2. Whether the PUD has a likelihood of now proceeding.
- C. If the PUD has not commenced and proceeded meaningfully towards completion at the end of the initial one-year time period, or the one permitted extension thereof, then the PUD approval shall be null and void.