

PUD, Planned Unit Development Districts

(a) General Provisions

1. Intent and Purpose

The purpose of the planned unit development (PUD) district is to allow the creation of a more desirable environment within residential and commercial districts through the application of flexible and diversified land development techniques under a comprehensive plan and program that is professionally prepared. This procedure is intended to provide opportunities for more efficient utilization of land than would otherwise be the case under the conventional provisions of the Zoning Ordinance. In return, the PUD districts require a high standard for the protection and preservation of environmentally sensitive lands, well planned living, working and shopping environments and the timely provision of essential utilities and streets.

PUDs are intended to be the vehicle for the application of new techniques and technology to community development. The PUD is not intended as a mechanism for blanket reduction of setbacks below that allowed by the base zoning district of the PUD.

The objective of PUDs is to achieve excellence in physical, social and economic planning by including:

- a. An orderly and creative arrangement of all land uses with respect to each other and to the entire community;
- b. A planned integrated comprehensive transportation system providing for separation of pedestrian and vehicular traffic;
- c. The provision of recreational facilities;
- d. Efficient use of land resources and conservation of environmentally sensitive areas;
- e. The provision of adequate and well-designed open space; and
- f. The staging of development in a manner that can be accommodated by the timely provision of public utilities, facilities and services.

The Planning Commission shall evaluate applications for PUDs in accordance with these purposes and intents.

An important feature of the PUD concept is to give the developer reasonable assurance of ultimate approval before expending complete design monies while providing City officials with assurance that the project shall retain the character envisioned at the time of preliminary approval.

2. Consistency with the Comprehensive Plan and Area Master Plans

No PUD shall be approved unless all plans for development are found to be consistent with the then current version of the Comprehensive Plan for the City and any adopted special Master Plan for the area in which the development is proposed. The Planning Commission shall make a finding regarding the consistency of any proposed PUD, said report to include findings that the development:

- a. Will be consistent with the currently effective Comprehensive Plan as well as any special Master Plan for the area;
- b. Is likely to be compatible with development permitted under the general development provisions of the Zoning Ordinance; and
- c. Will not significantly interfere with the use and enjoyment of other land in the vicinity.

3. Application of the District

A PUD overlay district may be applied over any residential, office or commercial zoning district established in Articles V through IX of the Zoning Ordinance.

4. Relation of Planned Unit Development Regulations to General Zoning, Subdivision or Other Regulations; Variations on Equal Satisfaction of Public Purposes

The PUD regulations that follow shall apply generally to the initiation and regulation of all PUD districts. Where there are conflicts between the special PUD regulations herein and general zoning, subdivision or other regulations or requirements, these regulations shall apply in PUD districts.

Where actions, designs or solutions proposed by the applicant are not literally in accordance with applicable PUD or general regulations, but the Planning Commission makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Planning Commission may make specific modification of the regulations in the particular case.

Except as indicated above, notwithstanding procedures and requirements generally in effect, procedures and requirements set forth herein and in guides and standards officially adopted as part of regulations for particular classes of PUD districts shall apply in PUD districts, to any amendments creating such districts and to issuance of all permits required therein.

5. Jurisdiction of Planning Commission and Board of Zoning Appeals

Activities which require special exception permits under various provisions of this ordinance may be allowed within PUDs during the initial build-out of said developments provided that the locations, nature and extent of such activities are approved initially by the Planning Commission and by City Council as part of the Master Plan or any subsequent amendment thereto. Upon seventy five percent (75%) completion of the residential units within said development, the Board of Zoning Appeals may approve special exceptions or variances in the manner specified in Chapter 10 of the Zoning Ordinance within all residential PUDs. Within nonresidential PUD districts, the Planning Commission shall act on all special exceptions and variances.

6. Ownership and Division of Land

No tract of land may receive approval as a PUD unless such tract is under the unified control of a landholder. Unless otherwise provided as a condition of approval of a PUD, the landholder of an approved PUD may divide and transfer parts of such development.

The transferee shall complete each such unit and shall use and maintain it in strict conformance with the adopted Master Plan.

A report identifying all property owners within the area of the proposed PUD district and giving evidence of unified control of the entire land area within the confines of the proposed district shall be submitted along with any application for approval of a Master Plan. The report shall state agreement of all present property owners and/or their successors in title:

- a. To proceed with the proposed development according to the regulations in effect when the map amendment creating the PUD district becomes effective and with such modifications as are set by City Council in the course of such action;
- b. To provide bonds, dedications, guarantees, agreements, contracts and deed restrictions acceptable to City Council in the course of such action; and
- c. To bind further successors in title to any commitments made under Section 9.05 (a)(6)(a) or Section 9.05 (a)(6)(b).

7. Staging of Development

The Planning Commission may elect to permit staging of the land development process within a PUD, in which case the following provisions shall apply:

- a. Each stage shall be so planned and so related to existing surroundings and available facilities and services that failure to proceed with subsequent stages will have no adverse impact on the PUD or surrounding properties; and

- b. Each stage of the development shall, at the time of approval of any site plan for any portion of that stage, be assured adequate public services to serve all development proposed for that stage.

(b) Administrative Procedure Governing Planned Unit Developments

1. Purpose and Intent

The purpose of these provisions is to prescribe a procedure for the review, approval and continued administration of all PUDs provided for by this section.

2. Pre-application Conference

Prior to filing an application for approval of a PUD, the applicant shall confer with the City Manager or the City Manager's designee concerning policy and procedure relative to the application. The Community Development Director shall arrange a formal meeting at which the applicant or their representative shall meet with other staff persons who will be involved in reviewing and recommending action on the proposed plan of development.

(c) Application for Preliminary Approval

Application for preliminary approval shall be made by the landholder of the affected property or the landholder's authorized agent to the Community Development Department in accordance with such written general rules regarding general procedure, the form of application and the required information as the Planning Commission may determine, provided they are consistent with the requirements set forth in Section 9.05 (d).

(d) Preliminary Master Plan of a Planned Unit Development

The Preliminary Master Plan for the proposed PUD shall be a general concept plan, which shall include the following:

1. Sufficient information to disclose:
 - a. The location and size of the area involved.
 - b. The existing topography of the area involved.
 - c. Location of transportation routes including streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas.
 - d. Location and approximate dimensions of structures, other than one- and two-family detached dwellings, including approximate height, bulk and the utilization of structures including activities and the number of living units.

- e. Estimated population density and extent of activities to be allocated to parts of the project.
- f. Reservations for public uses including schools, parks and other open spaces.
- g. Other major landscaping features.
- h. The general means of the disposition of sanitary wastes and storm water.
- i. The type and proposed use for any common open space included within the proposed development. Such information shall be sufficient to meet the requirements of Section 9.05 (s)(1).
- j. The ownership of all property proposed for incorporation within the PUD district. A copy of all deeds along with written documents signed by all property owners indicating willingness to abide by the approved Master Plan.
- k. The base zone district(s) proposed for inclusion within the PUD.
- l. A listing of land uses proposed for the development.

(Note: In an effort to increase the marketability of nonresidential sites located within PUD districts, the applicant may submit a list of alternative land uses, other than the uses shown on the plan, for such sites. Any such listing may contain only land uses permitted within the base zoning district(s) which the planned development district overlays and may be further limited.)

- 2. A tabulation of the land area to be devoted to various uses and activities and overall densities.
- 3. The nature of the landholder's interest in the land proposed to be developed and a written statement of concurrence from all parties having a beneficial interest in the affected property.
- 4. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures including proposed easements for public utilities, drainage ways and common open space.
- 5. A staging schedule is required when it is proposed that the Final Master Plan will be submitted in stages.

If the application is deemed incomplete by City staff, a written request shall be made for further information. In such case the application shall be held in abeyance until deemed complete. No plan shall be formally

presented for Planning Commission action until such plan is found complete and ready for review.

(e) Planning Commission Action on Preliminary Master Plan Application for Planned Unit Development

The Planning Commission, shall take action on the Preliminary Master Plan application by any one of the following:

1. Approval;
2. Conditional approval, in which the Planning Commission expressly denotes modifications which must be a part of the Master Plan approval; or
3. Disapproval.

(f) Conditional Approval – Applicant’s Response

When the Planning Commission's action is conditional approval, the Planning Commission shall specifically note in its’ minutes the conditions or modifications which must be complied with in order that the proposed PUD Master Plan receive approval. The applicant may make a written response concurring with the required modifications, in which case the master PUD is deemed to have Planning Commission approval, at the date of receipt of said written concurrence. When the applicant makes a negative reply or does not reply within forty-five (45) days of the date of conditional approval, the PUD shall be deemed as disapproved unless such time limit is extended by a specific action of the Planning Commission upon a written request of the applicant. In the event of a recommendation for disapproval, the applicant may, at the applicant’s option, proceed to City Council with the request.

(g) Action by City Council

Upon completion of review of a Preliminary Master Plan, the Planning Commission shall forward its report and recommendations to City Council for action. Upon receipt of the Planning Commission's report, City Council shall consider such report and recommendations, the Master Plan and such other information as City Council may require. City Council shall hold such required hearings and otherwise proceed in the manner prescribed for consideration of an amendment to the Zoning Ordinance.

In any instance where City Council may act to approve a proposed development, which the Planning Commission has recommended for disapproval or conditionally approved, City Council shall provide specific guidance as to:

1. Overall design of the plan;
2. Any modifications required; and

3. Any additional information related to a condition of City Council, which may be required by the Planning Commission in order for it to determine substantial compliance between the preliminary and Final Master Plan.

(h) Planned Unit Development and the Official Zoning Map

Upon approval by City Council, the Community Development Department staff shall place the extent of the PUD district on the official zoning map identified by the ordinance number providing approval. Similarly in the instance of action by City Council, after receiving a recommendation from the Planning Commission abolishing or canceling the PUD, the Community Development Department staff shall remove the PUD district from the official zoning map.

(i) Addition of Land Uses Not Included Within An Approved Preliminary Master Plan or Listing of Alternative Uses Allowable Within the Base Zoning District

The proposed addition of any use not authorized within an approved preliminary plan and accompanying listing of alternative nonresidential land uses that is allowable within the base zoning district wherein such use is proposed may be added to the plan only when approved as provided herein. The Planning Commission shall hear all such proposed amendments. The Planning Commission's action on the request for change shall be in the form of a submission of a recommendation to City Council for amendment to the approved Master Plan. A report detailing the action recommended by the Planning Commission shall accompany the submission to City Council. City Council shall hold a public hearing for all residents and other interested parties prior to any final action on any amendment proposed hereunder.

(j) Approval of the Final Master Plan of the Planned Unit Development

The approval by City Council of the Preliminary Master Plan of the PUD shall authorize and form the basis for the Planning Commission's final approval of said development. Final approval by the Planning Commission of the PUD shall be subject to the procedures and requirements of this subsection.

1. Application for Final Approval

Following approval of a Preliminary Master Plan by City Council, the landholder shall make application to the Planning Commission for approval of Final Master Plans for all or a portion, provided the portion is consistent with the staging schedule approved with the Preliminary Master Plan of the proposed PUD. In the event the entire PUD is less than thirty (30) acres, the Planning Commission has the option of waiving the requirement for a Final Master Plan. No action shall be taken on any Final Master Plan for any portion of a PUD until the landholder demonstrates that all land included within the portion of the plan covered by the Final Master Plan is owned by the landholder and that any options have been closed.

The application for approval of Final Master Plans shall include all aspects of the Preliminary Master Plan application, the proposed Final

Master Plan, other required drawings, specifications, covenants, easements and conditions and forms of bond as were set forth by the Planning Commission as part of the final development approval. Copies of legal documents required by the Planning Commission for dedication or reservation of common open space and/or for the creation of a nonprofit association shall also be submitted.

2. Final Approval of Stages

The application for final approval and the final approval by the Planning Commission may be limited to each stage as appropriate in a large PUD, in compliance with the staging plan approved as part of the Preliminary Master Plan.

3. Final Master Plan of a Planned Unit Development

The application for final approval shall be sufficiently detailed to indicate the ultimate operation and appearance of the development, or portion thereof, and shall include, but not be limited to, the following:

- a. Final Master Plan drawings at a scale no smaller than one (1) inch to two hundred (200) feet indicating:
 - (1) The anticipated finished topography of the area involved. This does not need to be based upon field survey data.
 - (2) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the PUD and to and from existing thoroughfares. This plan shall specifically include: width of proposed streets; a plan of any sidewalks or proposed pedestrian ways; and any special engineering features and traffic regulation devices needed to facilitate or insure the safety of the circulation pattern.
 - (3) An off-street parking and loading plan indicating ground coverage of parking areas.
 - (4) Areas proposed to be conveyed, dedicated or reserved for parks, parkways and other public or semi-public open space uses including any improvements, which are to be deeded as part of any common use area. Such information shall include general designs indicating all intended uses, equipment and facilities as specified in Section 9.05 (v)(6)(d)(i).
 - (5) Information regarding the physical characteristics of the surrounding area and developments within three hundred (300) feet of the proposed PUD.

- (6) Within nonresidential developments, a plan for each building site showing the approximate location of all buildings, structures and improvements and indicating the open spaces around buildings and structures. Within residential developments, typical building envelopes shall be shown.
 - (7) A plan for proposed utilities including sewers (both sanitary and storm), gas lines, water lines, fire hydrants and electric lines showing proposed connections to existing utility systems.
- b. A detailed land use map and a listing of land uses approved for the development.

(Note: The listing of approved land uses shall include the list of alternative land uses, other than the uses shown on the plan, which were approved within the preliminary PUD plan for nonresidential sites located within the development.)
 - c. A tabulation of proposed densities to be allocated to various parts of the area to be developed.
 - d. Final drafts of all proposed covenants and grants of easement, which are proposed for filing with final plats. Such documents shall be in a form approved by the City's Legal Department.
 - e. Final drafts of all proposed documents creating a homeowner's association or similar organization created for the purpose of owning and maintaining any common open space of facilities associated therewith.
 - f. A detailed listing of all conditions of approval to which the particular development, or individual sites located therein, are subject.

If the application is deemed incomplete by City staff, a written request shall be made for further information. In such case, the application shall be held in abeyance until deemed complete for final review. No plan shall be formally presented for Planning Commission action until such plan is found complete and ready for review.

4. Action on Final Plan

In reviewing a Final Master Plan, the function of the reviewing agencies is twofold. First, the plan must be found to be in substantial compliance (see Section 9.05 (k)) with the previously approved master plan. Secondly, all new information must be reviewed to determine its quality and compliance with all substantive requirements of this ordinance.

- a. Review Procedure

- (1) Application for final approval shall be made to the Planning Commission.
- (2) The completed final plan must be submitted to the Community Development Department. Seven (7) copies of the plan and related documents shall initially be required for staff review. Additional copies shall be required for distribution to the Planning Commission.
- (3) The Planning Commission may approve the final plan if it finds:
 - i. That the final plan meets the provisions for substantial compliance with the master plan set forth in Section 9.05 (k); and
 - ii. That the plan complies with all other standards for review which were not considered when the Preliminary Master Plan was approved.

5. Approval with Modification

Should the Planning Commission require any modification in the Final Master Plan or any portion thereof including covenants, etc., such modifications shall be agreed to by the applicant in writing prior to formal acceptance and filing of the Final Master Plan.

6. Filing of an Approved Final Master Plan

Upon formal action by the Planning Commission approving a Final Master Plan, or in the instance of conditional final approval, upon acceptance of the modifications as set forth in Section 9.05 (j)(5), said plan and all maps, covenants, and other portions thereof, shall be filed with the Community Development Department and other City departments as needed.

7. Disapproval

If the Planning Commission finds that the Final Master Plan does not meet the test for substantial compliance set forth below, or does not comply with other standards of review, it shall disapprove the plan. In the event of disapproval, a written report shall be prepared by the Planning Commission and sent to the applicant. This report shall detail the grounds on which the plan was denied to specifically include ways in which the Final Master Plan violated the substantial compliance provisions or other standards of review.

(k) Determination of Substantial Compliance

The Final Master Plan shall be deemed in substantial compliance with the Preliminary Master Plan provided modifications by the applicant do not involve changes which in the aggregate:

1. Violate any provisions of this section;
2. Vary the lot area requirement as submitted in the master plan by more than ten percent (10%);
3. Involve a reduction of more than five percent (5%) of the area shown on the master plan as reserved for common open space and/or usable open space;
4. Increase the floor area proposed in the master plan for nonresidential use by more than five percent (5%);
5. Increase the total ground area covered by buildings by more than two percent (2%); or
6. Involve any land use not specified on the approved master plan or the alternative list of uses for nonresidential sites.

In any instance wherein a Final Master Plan, including minor changes authorized under the provision of Section 9.05 (p) is found to not meet the test of substantial compliance as set forth herein, such plan may only be approved upon adoption of appropriate amendments to the adopted plan.

(l) Failure to Begin Planned Unit Development

If no actual construction has begun in the PUD within three (3) years from the date of approval of the Final Master Plan, or section thereof, said approval shall lapse and be of no further effect; however, the PUD overlay district remains in effect unless rescinded by City Council. No further developmental activity may take place until the existing master plan is reinstated to an active status or a revised master plan meeting all conditions of approval of the original plan is approved.

(m) Maintaining a Current Master Plan

Construction may take place only within such portion(s) of a PUD for which a current Final Master Plan is in effect. In spite of prior approvals, no action shall be taken in furtherance of any plan for a PUD for which a current Final Master Plan is not in effect. In any instance where the approval of such plans may have lapsed due to noncommencement of actual construction (see Section 9.05 (l)) the following actions may be taken:

1. Reinstatement of Previously Approved Master Plan

In the event that actual construction may not have begun and/or the approval of the Final Master Plan shall have lapsed, such plan may be reinstated by action of the Planning Commission and development may proceed, provided that no change is proposed that would require amendment of the plan.

2. Amending a Lapsed Master Plan

In the event that actual construction may not have begun, approval of the Master Plan shall have lapsed and revisions and/or alterations are proposed that exceed the minor site modifications authorized by Section 9.05 (p) and thus would require amendment of the plan, such action may be accomplished only with the approval of a new master plan.

3. Rescinding of Previously Approved Master Plan

The Final Master Plan may be rescinded by City Council upon receiving a recommendation by the Planning Commission. If the Final Master Plan is rescinded, the zoning reverts back to the zoning designation in effect before the PUD was approved.

(n) Enforcement of the Development Schedule

The construction and provision of all common open spaces and public and recreational facilities which are shown on the Final Master Plan must proceed at no slower a rate than the construction of dwelling units or other structures of a commercial nature. From time to time, the Planning Commission shall compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial structures is substantially greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, then either or both of the following actions may be taken:

1. The Planning Commission shall cease to approve any additional final plats; and/or
2. The City shall discontinue issuance of building permits.

In any instance where the above actions are taken, the Planning Commission shall gain assurance that the relationship between the construction of dwellings or other structures of a commercial nature and the provision of common open spaces and public and recreational facilities are brought into adequate balance prior to the continuance of construction.

(o) Building Permits and Use and Occupancy Permits

Building permits and use and occupancy permits shall be issued for uses, buildings and other structures in PUDs in accordance with this section; otherwise, permits and certificates shall be issued in accordance with the other applicable provisions of the Zoning ordinance.

1. Site plans

Site plans shall be required.

2. Building Permits

A building permit shall be issued for structures, buildings, activities or uses only in strict compliance with the adopted Final Master Plan of the particular PUD, including the conditions of approval. No building permit shall be issued for the area included in a PUD until the Final Master Plan has been adopted and the final plat recorded.

3. Use and Occupancy Permits

A use and occupancy permit may be issued only when the Community Development Department determines that the structure, building, activity or use as a part of a PUD conforms with the adopted Final Master Plan, including the conditions of its approval.

(p) Minor Site Modifications to an Adopted Final Planned Unit Master Plan

Minor modifications in the terms and conditions of the adopted Final Master Plan may be made from time to time as provided in this subsection. Any proposed modification that is not permitted under these provisions may be approved only as an amendment to the adopted Final Master Plan.

1. Minor Modifications During Construction

The Director of Community Development may approve minor modifications in the location, siting and height of buildings and structures if required by engineering or other circumstances not foreseen at the time the Final Master Plan was approved, so long as no modification violates the basic policy and concept or bulk and open space regulations of the PUD as presented in the master plan. The total of such modifications approved by the Director of Community Development shall never in the aggregate result in:

- a. Any increase in the number of residential units;
- b. An increase of more than ten (10) percent in the floor area proposed for nonresidential use of a commercial nature;
- c. An increase of more than ten (10) percent in the total ground area covered by buildings; or
- d. A reduction of more than four (4) percent in the area set aside for common open space.

Minor modifications in the location of streets and underground utilities may be approved under this subsection.

2. Subjects Not Included for Modification

The proposed addition of any use not approved in the Final Master Plan as well as any increases in the number of dwelling units permitted, building height, decreases in the parking requirements and vision clearance area are not subjects for adjustments by City staff. Any proposed modifications of any of the above may be made only as amendments to the adopted Final Master Plan.

3. Minimum Adjustments Only

Any modification must be held to the minimum necessary. Each of the following conditions must be found to apply to the particular circumstances prior to the granting of the adjustment.

a. Practical Difficulties or Unnecessary Hardship

That strict application of the provisions of Section 9.05 would result in practical difficulties or unnecessary hardships.

b. Extraordinary Circumstances

That there are exceptional or extraordinary circumstances or conditions applying to the land, buildings or uses referred to in the application, which circumstances or conditions do not apply generally to other land, buildings or uses in the same district.

c. Not Detrimental

That granting the application will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood of the premises.

d. Health or Safety Not Adversely Affected

That granting the application under the circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant.

e. Maintains Intent of Section 9.05 and the Master Plan

That such adjustment is within the intent and purpose of Section 9.05 and will not adversely affect the community objectives of the comprehensive plan.

(q) Amendments in an Approved Final Planned Unit Master Plan During the Period of Initial Construction

During the period of actual development or construction of any PUD, (or when developed in stages of any portion of the total development) the provisions of

this subsection shall apply to all proposed modifications which exceed the minor adjustments permitted by Section 9.05 (p). Once a PUD, or portion thereof, has seventy-five percent (75%) of the residential units completed, any further changes or alterations shall be governed by the provisions of Section 9.05 (r).

All proposed additions of uses not approved in the Final Master Plan as well as any decreases in the number of parking spaces or vision clearance area shall be subject to these provisions. In addition all minor modifications which exceed the cumulative changes in the ground coverage ratio, etc., permitted under Section 9.05(p) shall be governed by the provisions of this subsection.

1. Addition of Uses Not Authorized in the Approved Master Plan But Allowable Within the Base Zoning District

The proposed addition of any use not authorized within an approved master plan and listing of alternative nonresidential land uses but allowable within the base zoning district wherein such use is proposed, may be added to the plan only when approved as provided herein. The Planning Commission shall hear the proposed amendment and shall forward its recommendation to City Council for action. City Council shall hold a public hearing for all residents and other interested parties prior to any final action on any amendment proposed hereunder.

2. Addition of Residential Density, Floor Area of Nonresidential Uses and All Other Changes (Other Than Changes in Use) Not Authorized in the Approved Master Plan but Allowable Within the Base Zoning District

All proposed additions other than the additions of uses governed by Section 9.05(q)(1), including the addition of residential density or nonresidential use area which exceed the minor changes permitted under Section 9.05(p), and were not authorized in the approved Final Master Plan, but are allowable within the base zoning district, shall be considered as provided, herein.

All amendments to an approved Master Plan proposed under this subsection shall first be presented to the Planning Commission for a recommendation. The Planning Commission shall hear the proposed amendment and shall forward its recommendation to City Council for action. City Council shall hold a public hearing for all residents and other interested parties prior to any final action on any amendment proposed hereunder. Should City Council concur in the proposed amendment to the Final Master Plan, the Planning Commission may adopt said amendment only with an amended preliminary plan as a basis for such action.

(r) Control of Planned Unit Development Following Completion

1. Changes in the Use of Land or Bulk of Structures Within a Planned Development After Completion

After completion of seventy-five percent (75%) of the residential units in a PUD or an approved phase of a PUD, the use of land and the construction, modification or alteration of any buildings or structures within the planned development will be governed by the approved Final Master Plan, to the extent that such provisions are applicable, rather than by any other provisions of the Zoning Ordinance. In any instance where a change in the completed development is proposed, the Planning Commission shall review the Final Master Plan and shall provide an evaluation of the proposed change. Such evaluation shall as a minimum indicate the Planning Commission's findings concerning consistency of the proposed change with the approved Master Plan and impact upon the continued successful operation of such development relative to its original purpose and intent. The Planning Commission shall approve or disapprove the proposed change based upon the Commission's findings or make a recommendation to City Council, as provided for in Section 9.05(r)(1)(a)–(d). No changes may be made in the Final Master Plan unless such are required for the continued successful functioning of the planned development or unless such are required by changes in conditions that have occurred since the final plan was adopted or by changes in the development policy of the community. Changes may be made in the approved Final Master Plan only upon application to the appropriate agency under the procedure below:

- a. Any uses not authorized by the approved Final Master Plan, but allowable as a permitted use, a use permitted with supplemental provisions or a special exception in the base zoning district within which the planned development is located, may be added to the recorded Final Master Plan under the procedures provided by this ordinance for the approval of variances and special exceptions within a PUD district. (See Section 9.05(a)(5)).
- b. A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the Final Master Plan.
- c. Changes in the use of common open space may be authorized by an amendment to the final Master Plan provided that no amendment approved hereunder may act to abrogate or annul any covenant which provides for the use, operation or continuance of the common open space.
- d. All other changes in the Final Master Plan must be made by City Council, under the procedures authorized by the Zoning Ordinance for amendment of the zoning map.
- e. No changes in the Final Master Plan that are approved under this subsection are to be considered as a waiver of the covenants limiting the use of land, buildings, structures and improvements within the area of the planned development, and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

3. Resubdivision of a Planned Unit Development after Completion

A PUD may be subdivided and resubdivided for purpose of sale or lease after the certificate of completion has been issued under the procedures set forth below:

- a. If the subdivision or resubdivision of planned development will create a new lot line, the applicant shall make application to the Planning Commission for the approval of a subdivision or resubdivision. The Planning Commission may approve the subdivision or resubdivision of each section of the subdivided or resubdivided planned development if it meets the provisions of Section 9.05 governing density, common open space and dimensional requirements.
- b. All sections of a subdivided or resubdivided planned development are to be controlled by the Final Master Plan rather than by the provisions of the Zoning Ordinance that otherwise would be applicable.
- c. The owners or lessees of a subdivided or resubdivided planned development may jointly make application for a special exception or for an amendment to the adopted Final Master Plan.

(s) Common Open Space

Any common open space established by an adopted Final Master Plan for a PUD shall be subject to the following:

1. Quality, Use and Improvement of Common Open Space
 - a. Common open space shall be utilized for amenity, site protection or recreational purposes. Passive open space, active recreational open space and engineered functional elements authorized to be held in common shall be appropriate to the scale and character of the PUD considering its size, developmental density, expected population, topography and other factors.
 - b. Common open space may not be put to any use not specified in the approved Final Master Plan, unless such plan has been amended by action of City Council upon recommendation of the Planning Commission to specifically allow the change of use. No matter how authorized, no change may be considered as a waiver of any of the covenants limiting the use of common open space areas and all rights to enforce these covenants against any use so permitted are expressly reserved.

(Ord. No. 27-08 Revised Effective 10/2/08)
 - c. Common open space may, subject to approval by the Planning Commission and City Council, consist of improved or

unimproved land. All such land shall be designated as to its intended use upon the Final Master Plan, all site plans and all plats.

- d. The Final Master Plan shall indicate the intended use of all common open space located within the development. In the case of improved recreational space, such plan shall indicate in detail the design of such spaces along with a listing of all recreational facilities and equipment proposed for location within these spaces.

2. Conveyance of Common Open Space

All land shown on the Final Master Plans as common open space shall be conveyed under one of the following options:

- a. The City shall have the first and last offer of dedication of open space in the event said land is to be conveyed. Dedication shall take the form of fee simple ownership. The City may, but shall not be required to, accept open space provided: (i) such land is accessible to the residents of the City; (ii) there is no cost of acquisition other than the costs incidental to the transfer of ownership, such as title insurance; and (iii) the City agrees to and has access to maintain such lands. Where the City accepts dedication of common open space that contains improvements, the City may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of said improvements.
- b. Open space may be conveyed to trustees provided in an indenture establishing an association, funded trust or similar organization meeting the requirements of Section 9.05(s)(3) for the maintenance of the common open space within the planned development. The common open space shall be conveyed to the trust subject to covenants to be approved by the Planning Commission which restrict the common open space to the uses specified on the Final Master Plan, and which provide for maintenance of the common open space in a manner that assures its continuing use for its intended purposes.
- c. Where any land within an approved PUD district is proposed to be subdivided into residential lots and such site contains improved recreational open space, the recreational open space and all proposed improvements shall be completed and conveyed in the manner provided in Sections 9.05(s)(2)(a) and 9.05(s)(2)(b) at the time of filing of the final plat. In the event said improvements are not completed and conveyed at the time

of filing the final plat, a bond must be posted with the City to cover the total cost of constructing said improvements.

- d. The common open space and association facilities may be controlled through the use of condominium agreements approved by the City. Such agreements shall be in conformance with applicable State law, rules and regulations. All open space land shall be held as a “common element.”
- e. The City may, but shall not be required to, accept easements for public use of any portion or portions of undeveloped open space land, title of which is to remain in ownership by a condominium or homeowners’ association, provided:
 - (1) Such land is accessible to city residents;
 - (2) There is no cost of acquisition other than costs incidental to the transfer of ownership, such as title insurance; and
 - (3) A satisfactory maintenance agreement is reached between the developer, condominium association and the City.
- f. With the permission of the City, an owner may transfer elements to a private nonprofit organization among whose purposes it is to conserve open space and/or natural resources provided that:
 - (1) The organization is acceptable to the City and is a bona fide conservation organization with perpetual existence;
 - (2) The conveyance contains appropriate provisions for proper reverter and retransfer in the event that the organization becomes unwilling or unable to carry out its functions; and
 - (3) A maintenance agreement acceptable to the City is entered into by the developer and the organization.

3. Requirement for Maintenance Organization

In any instance where common open space is to be conveyed to an organization other than a public agency, the Planning Commission and City Council shall require that the landholder provide for and establish an organization for the ownership and maintenance of any common open space and that such organization shall continue in perpetuity, shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise, except to an organization conceived and established to own and maintain the common open space.

4. Mandatory Provisions Governing Organization and Operation of Homeowners’ Association or Maintenance Association

The open space and associated facilities may be held in common ownership by a homeowners' association or maintenance association. The association shall be formed and operated under the following provisions:

- a. The developer shall provide a description of the association, including the bylaws and methods for maintaining the open space.
- b. The association shall be organized by the developer and shall be operated with a financial subsidy from the developer before the sale of any lots within the development.
- c. Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors in title. The conditions and timing of transferring control of the association from developer to the homeowners shall be identified.
- d. The association shall be responsible for maintenance of insurance, including but not limited to liability and property insurance, and taxes on all open space, enforceable by liens placed by the City on the association. The association may place liens on the property of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.
- e. The members of the association shall share equitably the cost of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.
- f. In the event of a proposed transfer within the methods here permitted of open space land by the homeowners' association or of the assumption of maintenance of undivided open space land by the City, notice of such action shall be given to all property owners within the development.
- g. The association shall have or hire adequate staff to administer common facilities and properly maintain the undivided open space.
- h. The homeowners' association may lease open space lands to any other qualified person or corporation for operation and maintenance of open space lands, but such lease agreement shall provide:
 - (1) That the residents and property owners of the development shall at all times have access to the open space contained therein (except croplands during growing season);

- (2) That the undivided open space to be leased shall be maintained for the purposes set forth in Section 9.05;
- (3) That the operation of open space facilities may be for residents and property owners only, or may open to the residents of the City, at the election of the developer and/or the homeowners' association, as the case may be; and
- (4) That the lease shall be subject to approval of the Board of Directors of the homeowners' association and any transfer or assignment of the lease shall be further subject to approval by the City. Lease agreements so entered upon shall be recorded with the County Register of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the City.

5. Maintenance Standards

- a. The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all monies required for operations, maintenance or physical improvements to the open space through annual dues, special assessments, etc. The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.
- b. In the event that the association or any successor organization shall at any time after establishment of a development containing common open space, formal recreational improvements or engineered improvements fail to maintain the undivided open space, formal recreational improvements or engineered improvements in reasonable order and condition in accordance with the Master Plan, and to the same physical state of quality as originally constructed, the City may serve written notice upon the owner of record setting forth the manner in which the owner of record has failed to maintain the undivided open space, formal recreational improvements or engineered improvements in reasonable condition.

6. Failure of Maintenance Organization

In the event that the organization established to own and maintain common open space, formal recreational improvements or engineered improvements, or any successor organization shall at any time after the establishment of the PUD fail to maintain the common open space, formal recreational improvements or engineered improvements in reasonable order and condition in accordance with the adopted Master Plan, the City Manager or the City Manager's designee may serve written notice upon such organization and/or the owners or residents of the PUD and hold a public hearing. After thirty (30) days when

deficiencies of maintenance are not corrected, the City shall call upon any public or private agency to maintain the common open space, formal recreational improvements or engineered improvements for a period of one (1) year. When the City determines that the original organization does not have the capability to continue maintenance of common open space, formal recreational improvements or engineered improvements, the agency appointed under the provisions of this subsection may continue maintenance for yearly periods. The cost of such maintenance shall be assessed proportionately against the properties within the PUD that have a right of enjoyment of the common open space, formal recreational improvements or engineered improvements, and shall become a special assessment to the property tax or a lien on said properties. Such lien shall include an administrative fee to compensate the City for staff time which shall not exceed one hundred percent (100%) of the yearly Property Owners Association budget.

7. Assurance Involving the Provision of Common Open Space

The Planning Commission shall require adequate assurance, in a form and manner that it approves, that the common open space, formal recreational improvements or engineered improvements shown on the Final Master Plan will be provided and developed. The following methods of assurance are illustrative of the types of assurances required. They may be used singly, in combination or in conjunction with other similar methods:

- a. The City may accept a Letter of Credit, corporate surety, or other acceptable financial guarantee in an amount sufficient to purchase the common open space shown on the approved Master Plan or final plat. This surety is to be presented with the final subdivision plat for the lots served by the open space.
- b. The title to the land shown as common open space may be put in escrow. The escrow agreement to provide that the land is to be held in escrow until the Planning Commission has certified to the escrow agent that the planned development has been completed, at which time the common open space is to be conveyed as provided in Section 9.05(s)(2). The escrow agreement may provide for the release of common open space by the escrow agent in stages. In such instance the Planning Commission is to certify completion of each stage of the PUD to the escrow agent and the escrow agreement must provide that the open space may be conveyed in stages. In this event, the open space that is conveyed is to be of the same proportions to the total open space provided on the Final Master Plan as the dwelling units that have been built are to the total number of dwelling units which are allowable by the approved Master Plan.

8. Timing for Construction of Common Open Space Improvements

In general, the construction and provision of all common open spaces and public and recreational facilities that are shown on the Master Plan must proceed at no slower rate than the construction of dwelling units. From time to time the Planning Commission shall compare the actual development with the development schedule. If the Planning Commission finds that the rate of construction of dwelling units or commercial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may cease to approve additional final plats and/or the City may discontinue issuance of building permits.

(t) Minimum Performance Standards

In addition to satisfying all other applicable provisions of Section 9.05, approval of a Master Plan shall be based upon a demonstration that the following design and development objectives have been satisfied.

1. Protection of Cultural and Environmentally Sensitive Areas

Approval of a PUD district shall be based upon a demonstration that the proposed Master Plan will result in greater protection and preservation of cultural or environmentally sensitive areas than would otherwise result under provisions of the base zoning district. Areas to be protected may include undisturbed hillsides in excess of twenty percent (20%) slope, ridgetops and viewsheds, designated wetlands and all floodplain areas along streams, major drains and sinkholes as well as all sites of paleontological, prehistoric, historic and/or archeological significance, to specifically include any properties listed on the National Register of Historic Places.

2. Adequate Streets, Utilities and Drainage

Approval of a PUD district shall be based upon a demonstration that off-site streets, utilities and drainage features will be of adequate capacity to serve the proposed development in a manner that maintains the integrity and operational capacity of these networks to standards equal to or greater than current levels of operation. As a part of a proposal for a PUD district a property owner may offer to improve or otherwise provide adequate facilities to support the proposed intensity of development. All Final Master Plans shall comply with the then current version of the adopted Major Thoroughfare Plan.

3. Coordinated Vehicular Access

Approval of a PUD district shall be based upon a demonstration that the internal traffic circulation system will be adequate to support the operational needs of the development itself in a manner that maintains the integrity and operational capacity of the community's major street network to standards equal to or greater than current levels of operation.

(u) General Development Standards

The following provisions shall be applicable as indicated to all PUDs.

1. Relationship to Other Requirements

Unless otherwise specified in Section 9.05, all requirements and standards established by other provisions of the Zoning Ordinance shall apply to the development and use of properties located within any PUD district. In a case of conflict between the provisions of Section 9.05 and any other provision of the Zoning Ordinance, the provisions of Section 9.05 shall apply within PUD districts.

2. Landscaping and Buffering

Within any PUD, landscaping and buffering shall be provided which meets or exceeds the purposes and intents for such established in Sections 11.03, 13.04 and 13.02. It is intended, however, that within PUD districts, alternative means may be employed to achieve an equal level of protection to that resulting from strict application of the provisions of Sections 11.03, 13.04 and 13.02. Section 9.05 is intended to permit and encourage the use of flexible techniques to achieve a transitional character through site design that minimizes the harmful impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on or created by an adjoining or nearby use.

3. Parking, Loading and Access

All PUDs shall be subject to the provisions of Article XI, Off-Street Parking and Loading Requirements provided that the Planning Commission may permit a variance from off-street parking and loading requirements in approving a site plan.

4. Neighborhood Relationship

A PUD shall be harmonious and not conflict with surrounding residential neighborhoods. The development shall be planned, designed and constructed so as to avoid undue traffic congestion in the surrounding residential area and provide a satisfactory relationship of land use with the surrounding residential area, making use of landscaping, screening, open space and the placement of buildings to achieve this end.

5. Architectural Compatibility

All buildings located within any nonresidential PUD shall be designed utilizing a unified overall design concept so as to be architecturally compatible with one another. Examples of architectural features which may be important for ensuring compatibility include building bulk,

height, roof slopes, building orientation, overhangs, exterior materials and facades of buildings which front public streets.

6. Application of Supplemental Provisions

In general, the provisions of Article I Section 1.02, Article III Section 3.11 through 3.19, Article XI Sections 11.01 through 11.04, and Article XIV shall apply within any residential PUD district in a like manner as within a similar development located within any base district. Provided, however, that modifications within these standards may be recommended by the Planning Commission and approved by City Council as part of the Master Plan. Any modification approved herein shall provide facilities or standards of design that equal or exceed the specific requirements established in Article I Section 1.02, Article III Section 3.11 through 3.19, Article XI Sections 11.01 through 11.04, and Article XIV.

(v) Residential Development Standards

1. Minimum Size of Residential Planned Unit Development Districts

No residential PUD may contain less than the minimum area, as stipulated herein, unless City Council, upon the recommendation of the Planning Commission, finds that a tract containing less than this minimum is suitable as a PUD by virtue of its historical character, unique scenic qualities, ecological or topographic features. Whenever a residential PUD is proposed to be located within two (2) or more zoning districts with different required minimum areas, the largest required minimum area shall control.

Base Zoning District	Minimum Gross Area for Formation of Residential Planned Unit Development District
R-1	10 Acres
R-2 or R-4-A	8 Acres
R-3, R-4-B, R-4-C	5 Acres

2. Uses Permitted

The uses permitted within any portion of a residential PUD district shall be restricted to those uses and activities permitted within the base zone district which the planned unit district overlays. Provided, however, that within any district where multi-family dwellings are permitted one and two-family dwellings shall also be permitted.

a. Basic Density Calculations

The overall residential density of a Master Plan shall be established by application of the following table to the respective land area within each underlying district classification. A maximum density shall be assigned to each residential component

of the residential PUD, as provided in Section 9.05(v)(2), and made part of the Master Plan.

<u>Base Zoning District</u>	<u>Dwelling Units per Gross Acre</u>
RG-1	.5
R-1-A	2.5
R-1-A/B	3.5
R-1-B	4.5
R-1-C	5.5
R-2	10.0
R-3	15.0
R-4-A	19.0
R-4-B	23.0
R-4-C	32.0

b. Assignment of Density

Within any residential PUD district, the total density permitted according to the calculation presented in Section 9.05(v)(3)(a) shall be assigned within the residential PUD district, as follows:

- (1) The applicant may select a single zoning district or a series of districts to which density is to be assigned.
- (2) The district classification assigned to each phase shall be noted on the Master Plan, each final site plan and all associated subdivision plats.
- (3) The maximum density permitted within any portion of the PUD district shall be determined by the district classification assigned to each phase or portion of the plan.

4. Minimum Lot Sizes

a. Interior Lots Occupied by One- and Two-family Detached Dwellings

Unless otherwise stipulated in the approved Master Plan, the minimum size of residential lots occupied by one- and two-family dwellings located entirely within the interior portion of a residential PUD district may be as provided in Table 2, (below).

b. Peripheral Lots

Unless otherwise stipulated in the approved Master Plan, lots within an residential PUD district which abut a boundary of a base residential district shall along all points where such district(s) abut contain at least seventy-five percent (75%) of the minimum lot area and ninety percent (90%) of the lot width required by the adjoining base zoning districts(s).

c. Lots Occupied by One- and Two-Family Attached and Multi-family Dwellings

The size of lots occupied by attached one- and two-family and multi-family dwellings as well as the size and location of open spaces associated therewith shall be as approved within the Master Plan.

5. Bulk and Yard Provisions

The provisions of Section 9.05(v)(5) shall apply to the uses indicated when located within any residential PUD.

a. Bulk Provisions Applicable to All Residential Uses

The following bulk and yard provisions shall apply to all residential uses located within any PUD district.

(1) Maximum Building Height

The building height provisions established for the base zoning district wherein the residential PUD is located shall apply to all buildings unless a building is located within two hundred (200) feet of the perimeter of the PUD abutting a R-1 or R-2 district, then the maximum height is thirty five (35) feet.

(2) Maximum Floor Area to Lot Area

Principal structures shall be limited to the area of the "Floor Area to Lot Area" as specified in Table 1, below. With the exception of accessory uses permitted in required yards, all portions of the lot beyond the maximum building envelope shall remain open and unobstructed.

b. Minimum Setback

The spacing of buildings and the open spaces associated therewith shall be controlled by the "Minimum Setback" standards established in Table 1 (below).

c. Bulk and Yard Provisions Applicable to All Uses Other Than Residential

For all uses and activities other than residential activities located within any residential PUD, the bulk and yard provisions established for the base zoning district wherein such use is to be located shall apply.

d. Access

PUDs, or sections or parts or phases thereof, containing more than two hundred (200) dwelling units must have a second full means of access which shall afford an alternative means of safe entry to and egress from the development. This second means of access shall be provided either by full access to a public through road or street, other than that on which the primary access is located, or by full access to another point along the primary access road, provided that at each access point a route exiting to another through road or street is available in either direction.

TABLE 1

DENSITY AND BULK CRITERIA STANDARDS FOR
LOTS WITHIN RESIDENTIAL PLANNED UNIT DEVELOPMENTS

<u>ZONE DISTRICT</u>	RG-1	R-1-A	R-1-A/B	R-1-B	R-1-C	R-2	R-3	R-4-A	R-4-B	R-4-C
I. Minimum Lot Size										
With public water, but w/o public sewer	200,000 S.F.	2 ac.	2 ac.	2 ac.	2 ac.	N/A	N/A	N/A	N/A	N/A
With both public water and sewer	100,000	10,000	10,000	8,000	7,000	4,000 ³	N/A	N/A	N/A	N/A
II. Minimum Lot Frontage										
On street	30	30	30	30	30	30	50	50	50	50
On cul-de-sac	30	30	30	30	30	30	N/A	N/A	N/A	N/A
III. Maximum Floor Area to Lot Area	15%	20%	25%	30%	30%	30%	30%	35%	40%	60%
IV. Minimum Setback										
To off-site street	50	30	30	30	30	25	25	25	25	25
To tract boundary	50	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
To internal side lot line	35	10	10	5	5(2)	5(2)	(2)	(2)	(2)	(2)
(1) Same as abutting zone (2) May be reduced to zero (0) where party wall is used. Buildings to be separated as required by fire regulations. (3) Minimum lot size per unit.										

6. Open Space Requirements

a. General

Within any residential PUD open space shall be provided which is adequate to:

- (1) Buffer both internal and external activities from objectionable or conflicting characteristics associated with such uses;
- (2) Assure adequate space, light and air along with visual and acoustical privacy;
- (3) Assure protection of cultural and environmentally sensitive areas; and
- (4) Provide space for recreation and enjoyment of the residents.

b. Use of Common Open Space

All open space shown on a Master Plan of any residential PUD shall be indicated as to its intended use. In this regard, common open space may consist of the following:

- (1) Cultural and environmental open space.
- (2) Improved recreational open space

c. Cultural and Environmental Open Space

Except for those portions of a residential PUD required for the installation of streets and utilities, the following areas may be designated as environmental open space and no development may take place thereon.

- (1) Natural slopes of twenty percent (20%) or greater;
- (2) Areas classified as Floodplain Districts in Section 9.08 of the Zoning Ordinance and located as determined from field run surveys;
- (3) Streams, creeks and major drainage ways (specifically including all "blue line" streams);
- (4) Areas classified as wetlands;
- (5) Sites of paleontological, prehistoric, historic and/or archeological significance, specifically including all sites of historic or prehistoric human activity such as, but not

restricted to, buildings, stone walls, mounds, forts, earthworks, burial grounds, structures, villages, mines, caves and all locations which are or may be sources of paleontological remains;

- (6) All areas which present geological hazards, specifically including those within geologically unstable and karst formations (including sink holes); and
- (7) Areas presenting environmentally or ecologically unique resources, including the habitat of any and all threatened or endangered species of plants or animals.

d. Improved Recreational Open Space

In addition to the environmental open space required by Section 9.05(v)(6)(c), open space designed to meet the active and passive recreational needs of the resident population of any residential PUD shall be provided. A minimum of five percent (5%) of the gross area of every residential PUD shall be devoted to improved recreational open space. These areas shall meet the requirements set forth herein:

(1) Plan to Reflect Anticipated Needs of Resident Population

A recreation plan shall be developed and presented with the Final Master Plan for the proposed residential PUD. This plan shall indicate the general demographic characteristics of the anticipated population being targeted by the proposed development. The plan shall identify specific recreational needs associated with the expected future population and shall indicate the manner in which the proposed recreation facilities will fulfill the anticipated needs. In making its evaluation of the adequacy of the facilities proposed within any development the Planning Commission and City Council shall utilize published standards and criteria developed by the National Park and Recreation Association and other recognized authorities in the field of recreation.

These facilities may be devoted to either: (1) shared limited use facilities designed so as to assure privacy and control of access by and for the exclusive use of the intended resident clientele; or (2) shared general use recreation facilities which are available to all residents of the proposed development.

(2) Recreational Equipment

All recreational equipment provided within any shared general use recreation space shall be durable commercial grade equipment which shall meet all Consumer Product Safety Commission Safety Guidelines, as well as, the ASTM F1487-93, Public Use Playground Standard.

(3) Recreation Facilities

The following land areas and facilities shall, subject to compliance with the stipulated conditions, qualify as shared general use recreation space. Construction details of all improvements shall be shown on all final Master Plans. Such facilities will be bonded prior to filing of final subdivision plats.

i. Mini-Parks and Tot Lots

Mini-parks and tot lots are specialized facilities that serve a concentrated or limited population or specific age group, such as very young children or senior citizens, within areas that are in immediate walking distance (i.e. 1/4 mile) of their residences. The minimum total area of a mini-park is one-half (1/2) acre with a minimum dimension of one hundred (100) feet. The individual pieces of playground equipment shall be specified on the site plan. All recreational equipment provided shall meet or exceed the requirements of Section 9.05(v)(6)(d)(ii).

ii. Neighborhood Parks

Neighborhood parks are intended as areas of intense active recreational activities geared to the needs of school age and older children and adults. The minimum area included within a neighborhood park shall be five (5) acres. In general, such space shall be linked to all dwelling units within the PUD by a continuous pedestrian circulation system of sidewalks and/or trails. Neighborhood parks shall be designed to serve the population within a one-half (1/2) mile radius. Recreation facilities shall include areas and facilities for field games and crafts along with areas for skating, picnicking and similar activities. All recreational equipment provided shall meet or exceed the requirements of Section 9.05(v)(6)(d)(ii).

iii. Recreational Buildings

Recreational open space may be comprised of the area occupied by a multiple-use recreation building and its attendant outdoor recreation facilities, excluding a golf course.

iv. Pedestrian Open Space System

The total area contained in a continuous open space pedestrian system, consisting of permanently maintained walks and trails leading to a natural amenity, recreation facility or commercial use may be included as recreational open space. This system is intended to provide intradevelopment linkage of all elements of the improved recreational open space through a network that is divorced from roads and streets. The minimum width of all portions of this system is fifteen (15) feet with a paved surface of five (5) feet.

v. Specialized Facilities

A golf course may be used to satisfy a maximum of fifty percent (50%) of the shared general use recreation space requirement, provided that the access meets the standards for “shared general use recreational space”. Swimming pools, tennis courts and similar facilities principally intended to serve an adult population may be substituted for other recreational facilities within developments marketed to a totally adult population.

(w) Nonresidential Development Standards

1. Uses Permitted

a. General

In general, the uses and activities permitted within the underlying base commercial or mixed-use zoning district (including R-3, O-1, O-2, B-1, B-2, B-3 and UB-2) may be permitted within commercial PUDs that overlay those districts. Provided, however, that such uses may be further restricted as provided in Section 9.05(w)(2).

Where actions, designs or solutions proposed by the applicant are not literally in accord with applicable PUD or general regulations, but the Planning Commission makes a finding in the particular case that public purposes are satisfied to an equivalent or greater

degree, the Planning Commission may make specific modification of the regulations in the particular case.

b. Findings of Appropriateness

Due to the unique ability of the PUD process to tailor individual developments so as to achieve balanced and reasonable use of the land while maintaining an assured measure of protection for surrounding property owners, it is necessary that limited discretion be afforded to the Planning Commission and City Council in the process of selecting uses within particular developments. In this regard, it is necessary that the uses permitted within a particular development establish and maintain a high degree of compatibility with the immediately surrounding area. To this end, the selection of uses permitted within each individual commercial PUD will be guided by the following:

- (1) The use provisions established for the base district which the commercial PUD overlays;
- (2) The appropriateness of each use given the intended function of each commercial PUD;
- (3) The unique nature of the property surrounding each development; and
- (4) Consistency with any adopted area Master Plan that may be applicable to the proposed site.

This process may result in limitations, restrictions or the prohibition of particular uses permitted within a base zoning district from a commercial PUD which overlays that district.

c. Uses Permitted to Be Noted on Master Plan

Uses permitted within any commercial PUD along with the approved list of alternative land uses shall be indicated on the Master Plan. Any limitation of use made part of the approved Master Plan shall be noted along with the uses permitted.

2. Location and Required Area of Commercial Planned Unit Development

a. Review of Adopted Comprehensive Plan Required

In no event shall the location, composition and extent of a proposed commercial PUD be approved unless such proposed development is consistent with the actions and policies regarding land development adopted by the Planning Commission.

b. Impact Study for Commercial Planned Unit Development

The Planning Commission may require an Impact Study for any proposed commercial PUD. The Impact Study will be utilized, among other things, to determine the impact of the proposed development on the long-range development of the commercial land use in the area, to limit the extent of convenience districts serving a particular residential area; to ascertain the effects of a proposed development upon lands used or zoned for commercial purposes; to form a basis for evaluating the estimated effects on traffic, and other purposes which assist in an understanding of the public interest pertinent in the evaluation of a proposed development. The impact study, if required, shall be provided by the landholder.

c. Required Area

The minimum area required for a commercial PUD shall be five (5) acres.

3. General Development Standards - Bulk, Height and Building Spacing Requirements

a. Building Coverage Ratio

Individual buildings located within a commercial PUD district may exceed the maximum lot coverage ratio established for the base zoning district wherein the commercial PUD is located. However, in no instance shall the aggregate site coverage of all buildings located within the commercial PUD district exceed the coverage provisions established for the base zoning district in which such site is located. When more than one underlying base zoning district exists within a commercial PUD, building coverage ratios shall be calculated on a pro-rata basis. If land uses are proposed to be redistributed across the boundaries of underlying zoning districts, maximum floor areas shall be assigned to each component of the Master Plan and recorded by plat or equivalent instrument with the first phase of the Final Master Plan.

b. Maximum Building Height

The building height provisions established for the base zoning wherein the commercial PUD is located shall apply to all buildings unless a building is located within two hundred (200) feet of the perimeter of the PUD abutting a R-1 or R-2 district, then the maximum height is thirty five (35) feet.

c. Building Spacing and Yards

(1) Provisions Applicable Along Residential District Boundaries

Along all portions of a district boundary where a commercial PUD adjoins residentially zoned land not included within the PUD district, all buildings (measured from the site boundary to the nearest building line) shall be a minimum of thirty (30) feet.

To assist in preventing the transmission of light and noise from within a commercial PUD into any abutting residential district, screening shall be required where a commercial PUD abuts or is contiguous to any residential district, without an intervening public street, but with or without an intervening alley or other public way. There shall be provided within the commercial PUD, but not within an alley or other public way, continuous screening along the extent of the boundary of the said districts. Such screening shall be of wood, brick or decorative block with landscaping to soften the effect, or it shall be of such plant materials as will provide a year-round evergreen screening. Screening, as provided herein, shall be not less than six (6) feet in height, shall be provided from the grade of the property upward, and shall be permanently maintained.

(2) Provisions Applicable Along all Other District Boundaries

Unless otherwise specified in the approved Master Plan for the commercial PUD, all development located along district boundaries shall provide minimum yards and building separations specified for the base zoning district.

(3) Provisions Applicable to Internal Portions of a Commercial Planned Unit Development District

The minimum yard requirements of the base district shall apply within commercial PUD districts. However, the Planning Commission may approve a reduction in setbacks if it is determined that the development will not substantially injure the value of adjoining or abutting property, will not materially endanger the public health or safety, and will be in harmony with the area in which it is to be located and in general conformity with proposed plans for the development of the City of Oak Ridge. If reduced setbacks are approved there must be a recorded plat noting the approved setbacks. Minimum building separation shall be as provided herein. In cases where a building wall is not located directly adjacent to an interior side or rear lot line that is not adjacent to an alley, a yard with a minimum width or depth from the lot

line of fifteen (15) feet or the distance required by applicable building and fire codes shall be provided.

d. Outdoor Storage or Activities

Unless otherwise specified in the approved Master Plan for the commercial PUD, all outdoor storage facilities and outdoor sales activities are prohibited in any commercial PUD district. This provision shall not be construed to exclude seasonal displays and short-term charitable events of no more than ninety (90) days duration.

e. Landscaping Provisions

The provisions of Article XIII shall apply fully within all commercial PUD districts. In particular, off-street parking areas, service areas for loading and unloading other than passenger vehicles, and areas for storage and collection of refuse and garbage shall be screened.

f. Architectural Compatibility

All buildings located within any nonresidential PUD shall be designed utilizing a unified overall design concept so as to be architecturally compatible with one another. Examples of architectural features which may be important for ensuring compatibility include building bulk, height, roof slopes, building orientation, overhangs, exterior materials and facades of buildings which front public streets.

(Ord. No. 1-02 Revised Effective 1/17/02)