

7.13 PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

(Ord. #329, adopted 3/20/01)

SECTION:

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7.13.1 AUTHORIZATION:

The purpose of the PUD District is to promote flexibility, economy and creativity of site design and architecture in residential, commercial, industrial and rural districts to preserve open space, scenic views and/or rural character while creating compact neighborhoods that have strong visual and physical access to open space, distinct identity and a sense of community. This method of development uses the size and shape of the open space as the central organizing element and may provide commonly-owned open space areas for active and/or passive recreational use by residents and/or the larger community.

A PUD may be allowed only through a request for rezoning in any agricultural, residential, business or industrial zoning district. For PUD developments in shoreland districts, refer also to the Shoreland Management Ordinance.

Planned unit development authorization may allow:

Subd. 1. Variety: Within a comprehensive site design concept, a mixture of land uses, housing types, lot sizes and densities to accommodate a variety of age and income groups.

Subd. 2. Sensitivity: By departing from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements and other performance standards associated with traditional zoning, planned unit development can maximize the development potential of land while remaining sensitive to its unique and valuable natural and cultural characteristics.

Subd. 3. Efficiency: The consolidation of areas for recreation, open space and/or agricultural use and reductions in street lengths and other utility related expenses.

Subd. 4. Density Transfer: The project density may be clustered on areas that have low agricultural potential and/or natural housing appeal basing density on number of units per acre(s) instead of specific lot dimensions.

Subd. 5. District Integration: The combination of uses which are allowed in separate zoning districts such as:

- A. mixed residential allows both densities and unit types to be varied within the project.
- B. mixed commercial, industrial, residential, or institutional land use with the integration of compatible land uses within the project.

Subd 6. In considering a request for rezoning to a Planned Unit Development District, the Planning Commission and the County Board shall consider the following factors:

1. Whether the proposed project preserves the natural and scenic qualities of the subject areas.
2. Whether the proposed project limits development to a scale appropriate to the existing terrain and surrounding land use.
3. Whether the proposed project results in effective and unified treatment of the development possibilities on the project site.
4. Whether the proposed project is in harmony with existing and proposed developments in the area surrounding the site.
5. Whether the proposed project has the potential to depreciate surrounding property values.
6. Whether the proposed project is consistent with the purposes of the Development Code and consistent with the Comprehensive Plan.
7. The effect of the proposed project upon the health, safety and general welfare of the occupants of surrounding land.

7.13.2 ALLOWED USES

Subd. 1. Uses within the PUD may include only those uses generally associated with the underlying land use category shown for the area on the official Comprehensive Land Use Plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and in a development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan. Any change in the uses presented in the development plan will be considered an amendment to the PUD and will follow the procedures specified in Section 7.13.5 of this Ordinance.

7.13.3 REQUIRED STANDARDS

Subd. 1. The County shall consider the proposed PUD from the point of view of all standards and purposes of the Comprehensive Land Use Plan to:

- A. achieve maximum coordination between the proposed development and the surrounding uses
- B. minimize the impact on natural, scenic and cultural resources of the site including the conservation/protection of historic buildings, prime agricultural lands, endangered species, wetlands, woodlands, hedgerows, mature trees, rare plant communities and other significant vegetation;
- C. minimize fragmentation of open space
- D. whenever possible, connect with existing or potential open space lands on adjoining parcels; and
- E. protect the health, safety and welfare of the community and residents of the PUD.

To these ends, the County Board of Commissioners shall consider the location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas; and such other matters as the Board of Commissioners may find to have a material bearing upon the stated standards and objectives of the Comprehensive Land Use Plan.

7.13.4 COORDINATION WITH OTHER REGULATIONS

Subd. 1. Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this Chapter shall be submitted in a manner, which will satisfy the requirements of the subdivision ordinance for the preliminary and final plat.

Subd. 2. Specific structure setback restrictions applicable to PUD property shall be determined by the underlying land use district in which the property is located. Any departure from required setbacks must first be presented to the Planning Commission. Their recommendation will be sent to the Board of Commissioners for final approval.

7.13.5 REVISIONS AND/OR CHANGES

Subd. 1. Minor changes in the location, placement and height of structures may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the Final Plan was approved and filed with the Zoning Administrator.

Subd. 2. Changes in uses, significant changes in the location, size, or height of structures, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved final development plan may be made only after a public hearing conducted by the Board of Commissioners. Any changes shall be recorded as amendments to the recorded copy of the final development plan.

Subd. 3. All of the provisions of this Ordinance applicable to the original district within which the Planned Unit Development District is established shall apply to the PUD District except as otherwise provided in approval of the Final Plan.

Subd. 4. Review: If substantial development has not occurred within a reasonable time after approval of the PUD Zoning District, the County Board of Commissioners may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the County Board of Commissioners to find that the rezoning was in error.

7.13.6 PHASING AND GUARANTEE OF PERFORMANCE

Subd. 1. The Planning Commission shall compare the actual development accomplished in the various PUD zones with the approved development schedule.

Subd. 2. Upon recommendation of the Planning Commission and for good cause shown by the property owner, the Board of Commissioners may extend the limits of the development schedule.

Subd. 3. The construction and provision of all of the common open space and public and recreational facilities, which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The Planning Commission shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the Board of Commissioners for action.

Subd. 4. A performance bond or letter of credit shall be required to guarantee performance by the developer. The amount of this bond or letter of credit, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the development agreement.

7.13.7 CONTROL OF PLANNED UNIT DEVELOPMENT FOLLOWING COMPLETION

Subd. 1. After the land use permit has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.

Subd. 2. After the land use permit has been issued, no changes shall be made in the approved final development plan except upon application as provided below:

- A. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the Final Plan. No change authorized by this Section may increase the cubic volume of any building or structure by more than ten percent (10%).

- B. Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under Section 7.13.6.
- C. Changes in the use of the common open space may be authorized by an amendment to the final development plan under Section 7.13.6.
- D. Any other changes in the final development plan must be authorized by an amendment of the final development plan under Section 7.13.6.

7.13.8 PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT

There are three stages to the PUD process: Application Conference, Preliminary Concept Plan, and Final Plan, as described below:

Subd. 1. Application Conference: Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Ordinance before incurring substantial expense in the preparation of plans, surveys and other data.

Subd. 2. Preliminary Concept Plan

- A. Purpose: The Preliminary Concept Plan provides an opportunity for the applicant to submit a plan to the County showing the basic intent and the general nature of the entire development without incurring substantial costs for architectural, planning, engineering, legal or other services. The plan shall include the following:
 - 1. Specific location of residential and nonresidential land uses with lot layouts and approximate type and intensities of development.
 - 2. Overall maximum PUD density.
 - 3. Specific location of major streets and pedestrian ways.
 - 4. Location and extent of public and common open space.
 - 5. Staging and time schedule of development.
 - 6. Areas proposed for stormwater management and on- or off-site sewage treatment.
 - 7. Other special criteria for development.

B. Schedule:

1. Developer meets with the Zoning Administrator to discuss the proposed developments.
2. The applicant shall file the Preliminary Concept Plan application and preliminary plat, together with all supporting data.
3. After verification by the Zoning Administrator that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.
4. The Planning Commission shall conduct the hearing and report its findings and make recommendations to the County Board of Commissioners.
5. The County may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
6. The Board of Commissioners shall hold a public hearing after the receipt of the report and recommendations from the Planning Commission.

C. Applications: Ten (10) copies of the following exhibits, analysis and plans shall be submitted to the County for Preliminary Concept Plan stage:

1. Preliminary plat and information required by subdivision Ordinance.
2. General Information:
 - (a) The landowner's name and address and his/her interest in the subject property.
 - (b) The applicant's name and address if different from the landowner.
 - (c) The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
 - (d) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the County Attorney may require to show the status of title or control of the subject property.
3. Present Status:
 - (a) The address and legal description of the property.

- (b) The existing zoning classification and present land use of the subject property and all lands within one thousand feet (1,000') of the property.
- (c) A map depicting the existing development of the property and all land within one thousand feet (1,000') thereof and indicating the location of existing buildings, streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within five hundred feet (500') of the property.
- (d) A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the County's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the County.
- (e) Site Conditions: Graphic reproductions of the existing site conditions at a scale of one inch equals one hundred feet (1" = 100').
 - (1) Contours; minimum two foot (2") intervals.
 - (2) Location, type and extent of tree and other vegetative cover.
 - (3) Slope analysis.
 - (4) Location and extent of water bodies, wetlands, streams and flood plains within five hundred feet (500') of the property.
 - (5) Significant rock outcroppings.
 - (6) Existing drainage patterns.
 - (7) Vistas and significant views.
 - (8) Soil conditions as they affect development.
 - (9) Historic and cultural resources.

All of the graphics should be the same scale as the Final Plan to allow easy cross reference. The use of overlays is recommended for clear reference.

- (f) Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.

The following uses are permitted within PUD's. The following uses must meet the standards and criteria specified for those uses, as set forth in and regulated by the Benton County Development Code.

Uses permitted in the designed open space:

- Conservation uses (i.e., woodland, meadow, prairie)
 - Trails (walking, skiing, biking, horseback riding, snowmobiling)
 - Picnic areas
 - Community gardens
 - Turf areas for informal play
 - Common areas such as greens or squares
 - Ball fields
 - Playgrounds
 - Courts (tennis, basketball, etc.)
 - Swimming pools or beaches
 - Golf Courses
 - Stormwater management sedimentation ponds
 - Underground or subsurface sewage disposal systems for one or more lots.
- Recreation facilities may be made available for use by the general public, provided that buffer standards are met and that traffic and parking needs are addressed to the satisfaction of the Planning Commission.

(g) Urban Overlay Plat (Ghost Plat)

The County may require, at its option, an urban overlay plat for any development within an Urban Transition Area or Urban Growth Area as identified on the officially adopted Land Use Plan that involves a rezoning to a Residential PUD. The overlay plat shall show in concept the following:

1. How the land within the subdivision will be subdivided into urban lots in the future.
2. The layout of future streets or extensions
3. Easements for the extension of municipal sewer and water, and drainage and utility easements.

(h) Calculation of the maximum potential number of dwelling units.

The potential number of dwelling units shall be determined by multiplying the base yield of the residential zoned portion of the PUD by the maximum density increase shown in Table 1. The base yield shall be calculated as follows:

1. The buildable land area of the residential zoned portion of the PUD shall be calculated. Buildable area shall include the total land area of the residential zoned portion of the PUD less the area considered unbuildable due to wetland, bluff or land below the ordinary high water mark of a water body.

2. Where the allowable number of dwelling units in the underlying zoning district is determined by density, the buildable area of the residential zoned portion of the PUD shall be divided by the acres-per-unit density standard for the underlying zoning district.
 3. Where the permitted number of dwelling units in the underlying zoning district is determined by lot size standards, the buildable area of the residential zoned portion of the PUD shall be divided by the minimum lot size standard for the underlying district.
- (i) A statement of the estimated total number of dwelling units proposed for the PUD. The total number of units proposed shall not exceed the maximum potential calculated in (h) above. A tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area shall also be submitted, which shall include at least the following:
- (1)Area devoted to residential uses.
 - (2)Area devoted to residential use by building type.
 - (3)Area devoted to common open space.
 - (4)Area devoted to public open space.
 - (5)Approximate area devoted to streets.
 - (6)Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
 - (7)Approximate area, and floor area, devoted to commercial uses.
 - (8)Approximate area, and floor area, devoted to industrial or office use.
- (j) When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.
- (k) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.

- (l) Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
- (m) Schematic utilities plans indicating placement of water, sanitary and storm sewers.
- (n) The County may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- (o) The County may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

Subd. 3. Final Plan

- A. Purpose: The Final Plan stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD.
- B. Schedule: Following preliminary plat approval, if given, the applicant shall submit the Final Plan stage application and final plat. The application shall proceed and be acted upon in accordance with Section 7.13.6 for zoning district changes. If appropriate because of the limited scale of the proposal, the Preliminary Concept Plan stage and Final Plan stages may proceed simultaneously.
- C. Application: Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:
 - 1. A final plat and information required by the County Subdivision Ordinance.
 - 2. Ten (10) sets of preliminary plans drawn to a scale of not less than one inch equals one hundred feet (1"=100') (or scale requested by the Administrator containing at least the following information):
 - (a) Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county where the subject property is situated).
 - (b) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
 - (c) The location, size use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, including mobile homes, and existing buildings which will remain, if any.

- (d) Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
 - (e) Location, designation and total area of all common open space.
 - (f) Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
 - (g) Proposed lots and blocks, if any and numbering system.
 - (h) The location, use and size of structures and other land uses on adjacent properties.
 - (I) Detailed sketches and provisions of proposed landscaping.
 - (j) General grading and drainage plans for the developed PUD.
 - (k) Any other information that may have been required by the Planning Commission or Board of Commissioners in conjunction with the approval of the Preliminary Concept Plan.
3. An accurate legal description of the entire area within the PUD for which Final Development Plan approval is sought.
 4. A tabulation indicating the number of residential dwelling units and expected population.
 5. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
 6. Preliminary architectural "typical" plans indicating use, floor, plan, elevations and exterior wall finishes of proposed building, including mobile homes.
 7. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights of way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structure, including mobile homes, and uses.
 8. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The Plan should clearly reflect the site treatment and its conformance with the approved concept plan.
 9. A final plat prepared in accordance with the Subdivision Ordinance.

10. A soil erosion control plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

D. Management of Open Space and Common Facilities

- (1) All open space that is used to meet the “minimum required open space” standards of this section shall be permanently restricted from further development or subdivision by a permanent conservation easement, to be held by either:
 - (A) The County or another governmental body empowered to hold an interest in real property (in accordance with Minnesota Statutes Section 84C.01-.05).
 - (B) An established land trust or other conservation organization empowered to hold an interest in real property (in accordance with Minnesota Statutes Section 84C.01-.05).
- (2) Open space that is used for a golf course shall be regulated by a development agreement that restricts any further development or subdivision of the land and requires that land to be retained as an open space use if the golf course is no longer used as a golf course.
- (3) The open space lands and facilities that are owned in common shall be managed by a homeowners association.
- (4) The developer shall submit a plan detailing how the open space lands will be managed.

E. Homeowners’ Association

A Homeowners’ Association shall be established for the purpose of maintaining any commonly-owned land or facilities. Membership in the Association is mandatory for all purchasers of homes in the development and their successors.

A Homeowners’ Association Agreement, guaranteeing continuing maintenance, shall be submitted to the County as part of the data required for the PUD. The Homeowners’ Association documents or the declaration of covenants, conditions and restrictions shall contain the following information:

- (1) The legal description of the common lands or facilities.
- (2) The restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions.

- (3) A mechanism for resolving disputes among the owners or association members.
- (4) A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.
- (5) The conditions and timing of the transfer of ownership and control of land or facilities to the Association or to common ownership.

Any other matter the developer deems appropriate.

Table 1

	A-1	A-2	A-3	R-1	R-2	R-3
Maximum density (conventional) in units per acre	1:40	4:40	(determined by lot size)	(determined by lot size)	(determined by lot size)	(determined by lot size)
Minimum lot size (conventional)						
On-site Sewer	2.5	2.5	5	2.5	1	21,000 sq. ft.
Central Sewer	2.5	2.5	5	2.5	12,000 sq. ft.	12,000 sq. ft.
Maximum density increase	0%	0%	0%	10%	7.5%	5%