

CHAPTER 14: PLANNED UNIT DEVELOPMENT OVERLAY REGULATIONS “P.U.D.”

14.01 Purpose

The Planned Unit Development provisions of this chapter are intended to provide permissive, voluntary, and alternative zoning procedures for well planned developments in harmony with the public health, safety, morals and general welfare in any zone provided otherwise in this Ordinance and;

- (A) To permit the creation of areas within the Village that can be developed or redeveloped with maximum flexibility in design;
- (B) To promote the efficient use of land and facilitate an economic arrangement of buildings, circulation systems, and utilities; and to promote conformance to the village's land use and thoroughfare plan, zoning ordinance, and any other applicable regulations;
- (C) To provide for and locate suitable supporting recreation facilities, educational facilities and other public and semi-public common facilities, while preserving the existing landscape to the greatest extent possible;
- (D) To encourage the most skillful planning in the arrangement of buildings, the preservation of open space, the utilization of topography and other site features;
- (E) To provide creative and coordinated architectural and site designs harmonious and compatible with surrounding uses;
- (F) To encourage a mix of land use types and densities within a development in order to establish a balanced overall development pattern; and
- (G) To obtain pedestrian and bicycle amenities between neighborhoods and adjacent commercial and civic properties.

14.02 Permitted Uses

Any use permitted in this Zoning Ordinance may be permitted in the Planned Unit Development (PUD) district provided that it is consistent with the overall purpose of the PUD district and is compatible with the adjacent uses. Planning Commission reserves the right to prohibit certain uses which it may find objectionable for the reason that such uses are not consistent with the purpose set forth in [Sec.section](#) 14.01 or the use is not consistent with the planning criteria set forth in [Sec.section](#) 14.03 or other requirements in this [Chapterarticle](#).

14.03 Planning Criteria

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Planning criteria guidelines have been established to guide and control the planning, development and use of land in a PUD district and are in addition to all other applicable regulation in this Zoning Ordinance.

(A) Characteristics and Relationship of Buildings ~~to Each Other.~~

- (1) Evaluation of appearance of a project shall be based on quality of its overall design and relationship to surroundings. Architectural style is not restricted; however, Planning Commission may require architecture that is sensitive and compatible with its surroundings.
- (2) Buildings shall be in scale and harmonious with permanent neighboring developments.
- (3) Materials shall be in harmony with adjoining structures.
- (4) Materials shall be selected for suitability to the type of building and design in which they are used.
- (5) Materials shall be of durable quality. Construction materials such as tilt_up concrete, smooth faced block, prefabricated steel panels, and other similar materials shall be avoided unless the exterior surface is covered with an acceptable architectural treatment.
- (6) There should be definite transitions between changes of material and plane to break the building mass.
- (7) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious to their surroundings.
- (8) Exterior building components such as windows, doors, eaves, and parapets are required and shall have balanced proportions.
- (9) All sides of a structure should receive design consideration. A façade unrelated to the rest of the building is not in keeping with acceptable design.
- (10) Colors shall be harmonious and accents, if used, shall be compatible.
- (11) All projections and mechanical details such as louvers, exposed flashing, flues, vents, gutters and downspouts are to be recognized as architectural features and are to be treated to match the color of the adjacent surface or an approved complementary color.
- (12) Mechanical equipment or other utility hardware on the roof, ground, or elevations shall, wherever possible, be located so as not to be visible from any public ways or adjacent residential areas. Where such limitation on location is not possible, the facilities shall be screened from public view with landscaping and/or materials harmonious with the building.
- (13) Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways with landscaping and/or materials harmonious with the building.

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- (14) Monotony of design in single or multiple building projects shall be avoided. Variation of exterior wall material, detail, form and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to help prevent a monotonous appearance.

(B) Relationship of Buildings to Site

- (1) Projects shall reflect the character of the site upon which they are located. Compatibility to grade conditions, degree of exposure from passers-by, the context of adjacent structures, exceptional views, tree masses, and size of the lot are some of the factors to be considered.
- (2) The site shall be planned to accomplish a desirable transition with the streetscape, and to provide for adequate planting, safe pedestrian movement, and parking areas.
- (3) Consideration of the appropriateness of providing setbacks and yards in excess of zoning restrictions is encouraged to enhance compatible relationships between buildings, and between buildings and adjacent streets.
- (4) Plans should demonstrate a concern for the conservation of energy by their sensitivity to factors such as the orientation of a building, the use and location of glass, and the use of landscape materials on the site.
- (5) Parking areas shall be treated with decorative elements, building wall extensions, plantings, beams or other means so as to minimize the impact of parked vehicles on the view from public ways and adjacent residential areas.
- (6) Fencing plans must be a part of the submittal at the earliest stages and should be consistent with the general plan for the site.
- (7) The design of fences and screening walls shall give specific consideration to the relief of monotony, such as breaking up major lengths by complementary landscaping.
- (8) Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.
- (9) Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- (10) Residential units shall have access to, or be directly abutting, public or common open space areas.

(C) Relationship of Project to Adjoining Area

- (1) Designs shall demonstrate a harmony in texture, lines, and masses between all adjacent buildings. Monotony shall be avoided.
- (2) The height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

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- (3) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks and materials.
- (4) Attractive landscape transition or compatible use characteristics to adjoining properties shall be provided.
- (5) Project features that may have negative impacts upon adjacent properties, such as parking lots, service entrances, loading zones, mechanical equipment, etc., shall be buffered from the adjacent properties.

(D) Landscape and Site Treatment:

See Chapter 29, Landscaping and Screening.

(E) Non-Motorized Transportation:

- (1) The planned unit development shall be designed with a sidewalk network to accommodate safe pedestrian circulation throughout and along the perimeter of the site, without interference from vehicular traffic.
- (2) Pedestrian passage in a form of an access easement is strongly recommended between dead-end streets, including cul-de-sacs, and adjacent thoroughfares and developments.
- (3) Pedestrian amenities are strongly encouraged and include any element that further enhances the visual appeal of the development and community and benefits residents, guests, employees or patrons of the development. Examples include, but are not limited to public assembly areas including: plazas, formal gardens, patios, playgrounds and courtyards; decorative and natural looking water features and fountains; and pedestrian walkways and sidewalks made of decorative materials and colors. Each planned development shall have a minimum of two of the above mentioned amenities or other amenity landscaping. Each pedestrian area shall provide benches and other amenities designed to attract pedestrians as a place to rest, congregate and socialize. ~~Each planned development shall have a minimum of two of the above mentioned or other amenity landscaping.~~

(F) Signs:

See Chapter 21, Signs.

(G) Lighting:

- (1) All exterior lighting should balance the need for energy conservation with needs for safety, security and decoration.
- (2) Where decorative exterior floodlighting is used, it shall consist of an appropriate composition of brightness relationships, textures, and restrained colors to dramatize a setting and extend the hours of the setting's usefulness. Floodlighting fixtures shall be located or shielded so that their presence is minimized.

- (3) All exterior lighting shall be part of the architectural and landscape design concept. Fixtures, standards and all exposed accessories shall be concealed or harmonious with other project design materials.
- (4) In general, the height of exterior lighting fixtures shall not exceed the predominant height of the principal building to which it relates.
- (5) Exterior lighting shall not be designed to permit an adverse effect upon neighboring properties. Designs shall specify appropriate light cut-off angles for all sources of strong illumination.
- (6) If high pressure sodium vapor luminaries are used for free-standing parking lot and internal access route lighting, they should be color corrected for compatibility.

(H) Miscellaneous Structures and Street Hardware

~~(1)~~ Miscellaneous structures and street hardware (i.e., seating, lighting, mailboxes, etc.) shall be designed to be a part of the architectural and landscape design concept. The materials shall be compatible, the scale shall be appropriate, and the colors shall be in harmony with buildings and surroundings.

(I) Maintenance Design Factors

- (1) Continued quality of appearance depends upon the extent of quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.
- (2) Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage and abuse.
- (3) Provisions for washing and cleaning of buildings and structures and control of dirt and refuse shall be included in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt and rubbish shall be avoided.

14.04 Area and Density Regulations

The various area, yard and height regulations of a planned unit development area in a PUD district are defined and set forth as follows:

- (A) **Development Area.** The minimum area to qualify as a planned unit development area shall be not less than five (5) contiguous acres. A parcel or parcels of land with less acreage may be considered for a planned unit development when it is demonstrated that such smaller area has a unique feature of geography, topography or other development aspect which is determined to be appropriate for such district designation. However, contiguous property of less than five (5) acres may be added to a previously established PUD district without any demonstrated basis.
- (B) **Ability to Vary Dimensional Standards.** Lot width, setback and yard requirements may be varied to accommodate a variety of structural patterns, clustering design and

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housing types; unless explicitly varied by the PUD, the requirements of the underlying zoning district(s) shall apply.

(C) Uses. Residential uses including single family homes, two-family homes, and multiple family housing including row houses, condominiums, landminiums and zero-lot line developments may be combined in PUD districts, provided that the proposed location of the uses will not adversely impact upon adjacent property or the public health, safety and general welfare, and that the location of such uses are specified in the final development plan. ~~Lot area, other yard requirements, and use requirements of these underlying residential districts shall apply except as modified herein by this article.~~

(D) Residential Density. ~~P~~Maximum project density shall be determined by dividing the total net residential ~~lot~~ area by the minimum allowable lot area in the underlying zoning district as shown in ~~based on~~ Table 14.1:

TABLE 14.1: MINIMUM LOT AREAS	
Zoning District	Minimum Allowable Lot Area
R-1	9,600 sq. ft.
R-2	10,000 sq. ft.
R-3	5,000 sq. ft.
RR	87,120 <u>sq. ft.</u>

~~Planning commission shall have the authority to deviate from the above standards subject to subsection 4 hereof. The calculation of residential density shall be determined by dividing the total number of units by the net residential area. Net residential area is defined as the total lot area minus all ~~excludes that~~ portions dedicated to right-of-way. The Planning Commission shall have the authority to deviate from these density standards in subsection (D) by exercising the provisions of subsection (E) below.~~

(E) Standards for ~~i~~Increasing in ~~r~~Residential ~~d~~Density.

(1) The Planning Commission may recommend authorization of an increase in the residential density of at the ~~p~~Planned ~~u~~Unit ~~d~~Development for exemplary projects that substantially meet requirements of Sec. 14.03. If the Planning Commission finds that any of the following conditions would be created by an increase in density, it may then use either of the provisions listed in Sec. section 14.04 (E)(2): ~~Hereof.~~

- (a) Inconvenient or unsafe access to the ~~p~~Planned ~~u~~Unit ~~d~~Development;
- (b) Traffic congestion in the streets which adjoin the ~~p~~Planned ~~u~~Unit ~~d~~Development; or

- (c) An excessive burden on parks, recreational areas, schools and other public facilities which serve or are proposed to serve the ~~p~~Planned ~~u~~Unit ~~d~~Development.
- (2) The Planning Commission may use either of the following provisions in order to control the conditions specified in 14.04(~~ED~~)(1): ~~Hereof.~~
 - (a) Prohibit any increase in density; or
 - (b) Limit the increase in density by an amount which is sufficient to avoid the creation of any of these conditions.

14.05 Buffering ~~b~~Between ~~u~~Uses

The minimum setbacks required for buildings, parking and streets along the boundary of any PUD district shall meet the minimum standards in Chapter 29, Landscaping and Screening.

14.06 Required Open Spaces

The ~~p~~Planned ~~u~~Unit ~~d~~Development will only be approved if the development plan contains areas to be allocated for common open space which satisfy the standards governing the usability and quality of common open space that are contained below:

- (A) No open area may be accepted as common open space under the provisions of this zoning ordinance unless it meets the following standards:
 - (1) Common open space shall comprise at least twenty percent (20%) of the project area.
 - (2) The location, shape, size and character of the common open space shall be suitable for the ~~p~~Planned ~~u~~Unit ~~d~~Development. ~~Public utility and similar easements and rights of way for water courses and other similar channels may be acceptable for common open space provided it does not comprise more than fifty percent (50%) of the minimum open space total, unless such land or right of way is usable as a trail or similar purpose and has been approved by the commission.~~ Common open space shall not include any public utility easements, rights-of-way, private yards, required setbacks between the project boundary lines and buildings, and minimum spacing between buildings.
 - (3) Common open space shall be used as an amenity ~~for~~ recreational purposes or remain undeveloped. The uses authorized for the common open space shall be appropriate to the scale and character of the ~~p~~Planned ~~u~~Unit ~~d~~Development, considering its size, density, expected population, (accounting for age including ages ~~and number)~~, topography, and the number and type of dwellings or uses to be provided.
 - (4) Common open space shall be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space shall be appropriate to the uses which are authorized for the common open space and shall conserve and enhance the

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amenities of the common open space having regard to its topography and unimproved condition.

- (5) The development schedule which is part of the development plan shall coordinate the improvement of the common open space, the construction of buildings, structures and improvements in the common open space and the construction of other buildings in the planned development.
- (6) If the final development plan provides for buildings, structures or improvements in the common open space, the developer shall provide a bond of one hundred percent (100%) of the village engineer's estimate of the cost of those improvements so that the buildings, structures and improvements will be completed before the final plat is recorded. Upon request of the developer, the Planning Commission may delay the requirements of posting bond, such delay to be based upon the development schedule. If the developer does not complete the buildings, structures and improvements at the time set forth in the schedule, then the commission shall require that a bond be provided for the remainder of the improvements. The commission shall release the bond or other assurance when the buildings, structures or improvements have been completed according to the development plan.
- (7) The use and improvement of the common open space shall be planned in relation to any existing or proposed public or semi-public open space which adjoins or which is within fifteen hundred (1,500) feet of the perimeter of the ~~p~~Planned Unit dDevelopment.

(B) All land shown on the final development plan as common open space shall be conveyed ~~to under~~ one (1) of the following ~~options~~:

- ~~(1) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it.~~
- ~~(2) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned unit development. The common open space shall be conveyed to the trustees subject to covenants to be approved by the Planning Commission which restrict the common open space to the uses or extent of development specified on the final development plan and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.~~
- (1) A public entity or agency, such as the Village, Warren County, or the State of Ohio, subject to acceptance by the appropriate legislative body;
- (2) An individual or group of individuals;
- (3) A non-profit organization;
- (4) A homeowners' association or similar association, where the open space is held jointly or in common by the owners of the building lots; or
- (5) Any combination of the entities mentioned above.

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- (C) No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use so authorized 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 are expressly reserved.
- ~~(D) If the common open space is not conveyed to a public agency, either one of the following methods of enforcement may be provided:~~
- ~~(1) The legal right to develop the common open space for those uses not specified in the final development plan may be conveyed to a public agency.~~
- ~~(2) The restrictions governing the use, improvement and maintenance of the common open space may be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency, at its discretion, in the event of a substantial default in the stated conditions.~~
- ~~(3) The covenants governing the use, improvement and maintenance of the common open space may authorize a public agency to enforce their provisions.~~
- ~~(E) The building official shall not issue a building permit for any building or structure shown on the final development plan for any stage of the planned unit development unless the common open space allocated to that stage by the development schedule has been conveyed under one of the options provided in subsection hereof.~~

14.07 Intent of Procedural Requirements; Required Charges

- (A) It is the purpose of ~~s~~Sections 14.07 through 14.22 to establish procedures, supplementary to those applicable in the standard zoning districts created by this zoning ordinance, under which a developer may prepare development plans particularly designed to meet the objectives for a ~~p~~Planned ~~u~~Unit ~~d~~Development. Procedures are also established for professional review of such development plans, action thereon by the village and the implementation thereof.
- (B) The applicant shall be responsible for the reasonable expenses incurred by the ~~v~~Village in reviewing the plan or any modifications to the plan. Such expenses may include items such as the cost of professional and review services, including expenses and legal fees in connection with reviewing the plan and prepared reports, the publication and mailing of public notice in connection therewith and any other reasonable expenses directly attributable thereon.
- (C) At the time of submitting the preliminary plan to the Planning Commission for consideration, the applicant shall make a deposit in the office of the clerk in an amount equal to the estimated cost of the ~~v~~Village's expense. This deposit shall not exceed two thousand five hundred dollars (\$2,500) at any time. When this deposit has been depleted to thirty-three percent (33%), another deposit will be requested.

14.08 Preliminary Plan of Development Area

- (A) The developer is encouraged to meet with the [zoning inspector](#) ~~village planner~~ and village engineer prior to submission of a preliminary plan. The intent of this meeting is

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to discuss early and informally, the purpose and effect of the ordinance and the criteria and standards contained herein. It will also give the developer the opportunity to become familiar with zoning and other applicable regulations, as well as [receive](#) the benefit of any comments on ~~the~~^{his} specific proposal by the village staff. The preliminary plan shall include the following information:

- (1) Name, address, and phone number of the applicant.
- (2) Name, address, and phone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of preliminary development plans.
- (3) The boundary of the proposed ~~p~~^Planned ~~u~~^Unit ~~d~~^Development with bearings and distances indicated for all proposed boundary lines. The total area of the proposed ~~p~~^Planned ~~u~~^Unit ~~d~~^Development should be indicated.
- (4) The zoning of all adjoining properties and existing zoning of sites.
- (5) Existing features of the site within [one hundred \(100\)](#) feet including topography at [ten \(10\)](#) foot intervals or less, vegetation, trees with [eight \(8\)](#)-inch caliper, roadways, structures, permanent facilities, drainage courses and utilities.
- (6) The specific location of proposed land uses within the planned unit development. The amount of area dedicated to each type of land use shall be indicated. The types of uses and their extent, size and composition in terms of use, intensity and coverage of structures shall be specified. For residential developments, dwelling unit density in terms of dwelling units per gross acre and minimum lot sizes, frontages and setbacks shall be specified.
- (7) The interior open space system includes open space area calculations.
- (8) The conceptual circulation system, noting the primary roadway and pedestrian systems within the project and their connection to the existing network including existing and proposed right-of-way widths.
- (9) All FEMA designated [one hundred \(100\)](#)-year flood plain areas.
- (10) Conceptual utility layout indicating approximate location of lines, easements, and connections.
- (11) A complete application provided by the village along with the required review fee.
- (12) A list containing the names and addresses of all property owners adjacent to and within [three hundred \(300\)](#) feet of the subject property printed on [two \(2\)](#) sets of address labels.
- (13) Legal description of property.
- (14) A vicinity map at a scale approved by the zoning ~~inspector~~ ^{administrator} showing the property lines, streets, existing and proposed zoning, and such other items as the zoning ~~inspector~~ ^{administrator} may require.

- (15) Proposed regarding that would substantially alter the topography.
- (16) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development.

14.09 Referral ~~F~~for Review and Reports

Upon receipt of a preliminary plan of a development area, the zoning ~~inspector~~administrator shall transmit a copy of the preliminary plan to the village planner, village engineer, and fire chief for their review, report and recommendation. The zoning ~~inspector~~administrator shall also transmit a copy of all covenants, restrictions and easements to be recorded and covenants for maintenance to the solicitor for his or her review, report and recommendation. The solicitor, engineer and planner shall each, within fifteen (15) days from receiving a preliminary plan of the development area, unless otherwise extended, provide and furnish to the Planning Commission a report upon their respective jurisdiction.

14.10 Planning Commission Public Hearing

The Planning Commission shall schedule a public hearing on the application for approval of the preliminary plan not less than twenty (20) days or more than forty (40) days from the date of filing such application.

14.11 Notice of Public Hearing

Before holding the public hearing, notice of such commission hearing shall be given in one or more newspapers of general circulation at least fifteen (15) days before the date of said hearing. The notice shall set for the time and place of the public hearing, a general description of the ~~p~~Planned ~~u~~Unit ~~d~~Development, and a statement that, after the public hearing and submission of a final development plan, the matter will be referred to the village council for further determination. Written notice of the hearing on the ~~p~~Planned ~~u~~Unit ~~d~~Development shall be mailed by the clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property located within three hundred (300) feet of ~~the proposed~~a PUD boundary. Notices to individual property owners should contain the same information as required of notices published in the newspaper.

14.12 Public Access to Proposed PUD Documents

For a period of at least twenty (20) days prior to the public hearing by the commission, all papers relating to the ~~p~~Planned ~~u~~Unit ~~d~~Development shall be available for public inspection in the office of the zoning ~~inspector~~administrator.

14.13 Planning Commission Review

Within sixty (60) days after the public hearing, the Planning Commission shall review the preliminary plan to determine if it is consistent with the intent of these regulations; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. The Planning Commission's approval, approval with conditions, modification or disapproval in principle of the preliminary development plan shall be necessary before the preliminary development plan is transmitted to council.

14.14 Report to Council

- (A) Within sixty (60) days, unless otherwise extended by consent of the developer, after a preliminary plan has been filed with the zoning ~~inspector-administrator~~, the Planning Commission shall evaluate the plan and reports required under ~~Sec. 14.089~~, and it shall furnish to council its detailed report and recommendations with respect thereto. Planning Commission may extend the sixty (60) days set forth above for good cause. The Planning Commission shall notify the developer of any such extension prior to the elapse of the original sixty (60) days. Failure to submit the report within sixty (60) days shall not be deemed either an approval or disapproval of the preliminary plan.
- (B) The report of the Planning Commission shall include a finding either that the preliminary plan complies with the regulations, standards, criteria and purpose prescribed by this zoning ordinance for ~~p~~Planned ~~u~~Unit ~~d~~Development areas applicable to the proposal, or a finding of any failure of such compliance, and a recommendation that the preliminary plan be approved, approved with conditions, disapproved or modified. If in any evaluation, the Planning Commission finds that any regulations, standards or criteria prescribed by this zoning ordinance are inapplicable because of unusual conditions of the development area, or the nature and quality of the proposed design, it may recommend to council that an adjustment in such regulations, standards or criteria be made, and that special conditions be required for the development, provided such adjustment or conditions will not be in conflict with the promotion of the public health, safety and general welfare of the ~~v~~Village. Such adjustments and conditions shall constitute a part of the proposed preliminary plan.
- (C) The preliminary plan, together with eight (8) copies of the report of the Planning Commission, shall be filed with the clerk for submission to village council and the mayor.

14.15 Action by the Village Council

- (A) Council, at its next regular meeting following receipt of the Planning Commission report, or as otherwise extended by consent of the developer, shall set a date for a public hearing on the preliminary plan of the development area, including the report of the commission thereon, and shall give at least thirty (30) days notice of the time, place and purpose of such hearing by publication in one (1) or more newspapers of general circulation in the village.
- (B) Written notice of the hearing on the planned unit development shall be mailed by the clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property located within three hundred (300) feet of a PUD boundary. Notices to individual property owners should contain the same information as required of notices published in the newspaper.
- (C) Following the public hearing, council shall approve, approve with conditions, disapprove or modify the preliminary plan in conformity with regulations, standards, criteria and purpose prescribed by this zoning ordinance. Council may affirm any report of the Planning Commission or disapprove a favorable report of the Planning Commission by a majority vote of its members. If council reverses a report of the commission recommending disapproval of a preliminary plan, it may only do so by the affirmative vote of two thirds of the members elected or appointed to council.

14.16 Council's Action Shall Constitute Rezoning

Provided that council has acted as directed by Section 14.15 and provided that the Planning Commission has approved a preliminary development plan and preliminary plat (if a subdivision), then council's action under Section 14.15 shall constitute a zoning action and shall be subjected to all provisions contained within these regulations regarding referendum. Any subsequent rezoning of the property shall follow the amendment process as specified in these regulations.

14.17 Lapse of Approval

If within one hundred twenty (120) days of council's approval of the preliminary plan, the developer does not submit a final plan of the development area, or if the developer fails to commence construction within one (1) year of council's approval of the preliminary plan, then the developer shall forfeit the required inspection fee, and the approval of the preliminary plan shall lapse. The Planning Commission report and preliminary plan approved by council may specify an enlargement of the foregoing one hundred twenty (120)-day and one (1)-year periods for all or part of the development area when the nature and character of the particular type of use or development so required or when progressive stage development is specified in the preliminary plan.

14.18 Final Plan of a Development Area

The developer of any parcel or parcels of land for which a preliminary plan has been approved by council ~~shall~~ may submit a final plan of the development area. Twenty (20) copies of such plan shall be filed with the zoning ~~inspector~~ administrator along with a complete application including required review fee. The final development plan may be presented either in sections or in its entirety. Each application shall be signed by the owner, attesting to the truth and exactness of all information supplied on the application for the final development plan. Each application shall clearly state that the approval shall expire and a rezoning action may be initiated by the Planning Commission or council if construction on the project has not begun within two (2) years from the date of issuance of the approval. Within sixty (60) days after submission of the final development plan, the commission shall recommend that the final development plan be approved as presented, approved with conditions, or disapproved.

- (A) The final plan of the development area shall contain and be accompanied by the following unless waived by Planning Commission as inapplicable:
- (1) Topography, at a two (2) foot contour interval, of the proposed development area, including property lines, easements, street right-of way, existing structures, trees and landscape features existing thereon, floodplains, wetlands, ravines, stream areas, ponds and lakes, and including a certificate, by a registered engineer or surveyor, of the gross area of the development area in acres and square feet.
 - (2) The vehicular and pedestrian traffic patterns, with a traffic impact study, including the proposed location and design of public and private streets; the directional flow and location of existing and proposed storm and sanitary sewers and sewers connecting with existing or proposed municipal interceptor, outlet or trunk sewers outside the development area; the location and design of parking and service areas; and an estimate of traffic volumes to be generated, including the assignment of traffic to proposed entrances and exits.

- (3) A site plan, including the proposed public and private street system with right-of-way, all easements, the use and subdivision of all land including common and private land, and the location of each existing structure to be retained.
 - (4) A plat of the development area showing street right-of-way, subdivided and common land and easements in accordance with the requirements of the ~~v~~Village ~~s~~Subdivision ~~r~~Regulations which shall be in form for recording.
 - (5) Detailed plans and specifications for all streets, sidewalks, storm and sanitary sewers, water mains, street illumination, open space calculations, open space amenities, and all other site features of the development area or that portion of the development area to be developed, designed in accordance with the ~~v~~Village ~~s~~Subdivision ~~r~~Regulations. Upon approval and recommendation from the village engineer, Planning Commission may vary the ~~v~~Village's ~~s~~Subdivision ~~r~~Regulations to allow more flexibility in design.
 - (6) A detailed landscape plan showing all site features and finished grading for public and private lands within the development area.
 - (7) The final form of covenants running with the land and deed restrictions (including the use of common land); covenants, restrictions or easements to be recorded; declaration of covenants, restrictions and bylaws of a home association and its incorporation; declaration of condominium ownership and other covenants, if any, for maintenance.
 - (8) Estimated project cost, including estimates for all public and private improvements.
 - (9) Construction schedule and land disposition program.
 - (10) Site plans, floor plans, elevations and cross sections for all buildings and structures.
 - (11) Descriptive data as to the type of buildings, square footage for each use and number of dwelling units in each building type.
 - (12) In the event the final plan of a development area includes the subdivision of land, any map, plat or other data required for compliance with the provisions of the ~~v~~Village ~~s~~Subdivision ~~r~~Regulations.
- (B) The Planning Commission may require additional data and/or drawings to supplement the above when more information is needed or when special conditions occur.

14.19 Conditions for Approval ~~B~~by Commission

If the Planning Commission [shall consider the following criteria when approving a final PUD plan:](#)

- (A) ~~finds that a~~The ~~proposed final~~ plan ~~of development area~~ is in substantial accordance with and represents a detailed extension of the preliminary plan heretofore approved by council;

- (B) ~~that it~~ The plan complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan;
- (C) ~~that it~~ The plan is in accordance with the design criteria and provisions of this zoning ordinance which apply particularly to any plan of the planned unit development;
- (D) ~~that a~~ All agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed;
- (E) ~~that a~~ Development pursuant to a previously approved final plan is in accordance with that plan and the approved preliminary plan;
- (F) ~~that a~~ All fee payments have been made and that the provisions of the subdivision regulations have been met;
- (G) ~~that t~~ The location, design, size and uses will result in an attractive, healthful, efficient and stable environment for commerce and/or residential development;
- (H) ~~that t~~ The design size and use are consistent with land use plans adopted by the Planning Commission or council; ~~then the commission shall approve such final plan.~~

14.20 Zoning Certificates

No zoning certificates or other permits shall be issued until approval of the final development plan, ~~payment of the required fees and review of building plans are complete.~~

14.21 Progressive Development

When the final plan of the development area provides for partial development of the total area for which a preliminary plan has been approved, the Planning Commission may require inspections of the improvements then made, or detail plans for all improvements in the development area to permit evaluation of the progress and ~~c~~ conformance of development of the entire parcel to the preliminary plan or a previously approved final plan before further or partial development may be approved. Any plan, which requires more than twenty-four (24) months to complete, shall be constructed in phases and a phasing plan must be developed.

14.22 ~~Amendments to~~ Plan Modifications

~~At any time after the approval of a preliminary plan or a final plan of a development area, the owner or owners may request an amendment of their plans; the request of such amendment shall be filed with the zoning administrator and one (1) copy filed with the clerk of council. If such amendment, as determined by Planning Commission, represents a departure from the intent of, or a major departure from the substance of, the preliminary plan, such amendment shall then be subject to the same procedure and conditions of approval as the original application. For the purposes of this section, a "major departure from the substance of a preliminary plan" shall include, but not be limited to, an increase in or relocation of areas planned for a particular use or the addition of a use not included in the approved preliminary plan.~~

- (A) Modifications to an approved final PUD plan may be considered in accordance with this Section. A request for modification shall be submitted to the Zoning Inspector.

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(B) The Zoning Inspector shall have the authority to determine if the proposed modification is a major modification or minor modification in accordance with this Section. Such decision may be appealed to the BZA.

(C) Major Modifications

(1) Major modifications to an approved final PUD plan shall include but not be limited to:

(a) Changes to the PUD boundaries;

(b) An increase in residential density;

(c) An expansion in non-residential floor area that exceeds ten (10) percent of the total floor area that was previously approved;

(d) Changes in the amount (percentage of the total development) or location of different land uses;

(e) An addition of a use that is specifically prohibited, or not specifically approved for the PUD unless the use is otherwise permitted in the underlying base zone;

(f) A decrease in the total amount of open space or landscaping;

(g) A significant alteration of circulation patterns (vehicular or pedestrian);

(h) Changes that are not consistent with the purposes and general character of the PUD; or

(i) Any other major deviation from the requirements of the PUD or the Zoning Code.

(2) Major modifications shall require approval of a revised preliminary PUD plan submission, in accordance with the process and procedures outlined in this Chapter.

(D) Minor Modifications

Other amendments or modifications shall be classified as a minor modification and shall be reviewed and approved by the Zoning Inspector.