

## Chapter 10

# PUD - PLANNED UNIT DEVELOPMENT DISTRICT

### SECTION 10.1 INTENT

Planned Unit Developments are promoted in the Village of Fowler as a way for the Village to encourage high quality development with an emphasis on enhanced architectural and site design, landscaping, pedestrian, motorized and nonmotorized activities. In creating a “win-win” situation, the developer may expect a cooperative working relationship from the Village by receiving relief from typical zoning ordinance standards, such as setbacks and parking requirements.

Planned Unit Developments (PUDs) may be established as distinct zoning districts when approved by the Village Council in accordance with the ordinance procedures. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the relaxation of the conventional requirements found in other Zoning Districts. The use of land and the construction and use of buildings and other structures as Planned Unit Developments shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter.

### SECTION 10.2 QUALIFYING CONDITIONS

Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for the PUD District:

- A. The PUD site shall not be less than three (3) acres of fully contiguous property not separated by a public street, railroad right-of-way, or other such feature or barrier. If the PUD is to contain a mixture of residential and non-residential uses, the minimum required area shall be twelve (12) acres. The Planning Commission may consider a PUD on lesser acreage if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in Chapter 10. In addition, the Planning Commission may use the same intent section of the Zoning Ordinance when considering a PUD with property that may be separated by a public road, railroad, or other such feature or barrier. It would be up to the applicant to prove why, for example, the state highway (M-21) separating the acreage owned by the applicant, would not restrict the applicant’s ability to develop a cohesive PUD. Recreational amenities such as golf courses and health clubs, and ancillary commercial activities such as club houses and pro shops, shall not be considered non-residential uses for purposes of this Section.
- B. All PUD's shall be served by public water and sanitary sewer facilities.

- C. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all properties.
- D. If the Village of Fowler establishes a Master Plan, then the proposed uses of the PUD must be substantially consistent with the Master Plan descriptions for the subject property.
- E. The PUD must provide for integrated, safe and abundant pedestrian access and movement within the PUD and to adjacent properties.
- F. The PUD should provide for coordinated and innovative architectural styles, building forms and building relationships.
- G. The PUD should provide for enhanced landscaping efforts by the development. Examples include efforts to preserve the natural landscape, providing for tree lined streets, decorative landscaping around structures and focal landscape areas.
- H. Open Space Requirements:
  - 1. The PUD development shall contain usable open space in an amount equal to at least twenty (20) percent of the total PUD site. The Planning Commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in Chapter 10. It is noted that open space is a very important element of a PUD and reductions to the open space provision should be granted only as a result of specific, clearly documented reasons (i.e.- the PUD may have already been reduced from 7.5 acres to 2 acres and since the project will be located in the downtown, the 20% open space provision would detract from building continuity, historic preservation efforts, etc.).
  - 2. Usable open space shall not include required yards or buffers, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, and structures.
  - 3. Such open space shall be permanently set aside for the benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the Village; or, if agreed to by the Village Council, the open space may be conveyed to the Village for the use of the general public.

### **SECTION 10.3 PERMITTED USES**

- A. Any permitted or special land uses otherwise allowed in the existing District, in which the PUD is to be located may be approved within a PUD. If the applicant desires to provide a use that is not a permitted or special land use, then the applicant must prove that the proposed use would enhance the development and the surrounding uses of the district and adjoining districts. If the Village develops a Master Plan, then the applicant would need to show that the proposed use is consistent with the intent of the Master Plan.

**SECTION 10.4 PRE-APPLICATION CONFERENCE**

- A. A pre-application conference will be held with the Village of Fowler Planning Commission for the purpose of exchanging information, providing guidance to the applicant and determining the eligibility of the request for consideration as a PUD.
- B. A request for a pre-application conference shall be made to the Zoning Administrator. As part of the pre-application conference, the applicant shall submit copies of a conceptual plan, at a reasonable time period in advance of the pre-application conference, which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.
- C. The Village Planning Commission shall advise the applicant of the conformance of the PUD concept with the intent and objectives of a PUD in the Village of Fowler, whether it qualifies under the minimum requirements of Section. 10.02. No formal action will be taken at a pre-application conference nor will statements made at the pre-application conference be considered legally binding commitments.

**SECTION 10.5 PUD APPLICATION**

- A. Following the pre-application conference, applicants seeking approval of a PUD District shall submit a complete application for review to the Zoning Administrator who shall schedule a date and time for a public hearing and Planning Commission review. Such application shall include the following:
  - 1. A completed application form, supplied by the Zoning Administrator.
  - 2. Payment of a fee, as established by the Village Council.
  - 3. A narrative statement describing:
    - a. The objectives of the PUD and how it relates to the Intent of the PUD District, as described in Section 10.01.
    - b. The relationship of the PUD to the Village of Fowler Master Plan (if the Village develops a Master Plan).
    - c. Phases of development and approximate time frame for each phase.
    - d. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
    - e. Anticipated start and completion of construction.
    - f. Location, type, and size of areas to be dedicated for common open space.
- B. Sufficient copies of a preliminary development plan shall be provided to the Zoning Administrator. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the same information required in Chapter 11, under Site Plan Review Procedures, Section 11.03,B,1,b .
- C. Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the PUD rezoning requirements of the Zoning Act.

**SECTION 10.6 PLANNING COMMISSION RECOMMENDATION**

- A. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

- B. Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the standards of Section 10.11; and shall make a recommendation to the Village Council to approve, approve with conditions, or deny the PUD rezoning.
- C. In its recommendation to the Council, the Planning Commission shall include the reasons for such recommendation, specifically citing appropriate standards and sections of the Ordinance and identifying those specific conditions, if any, on the preliminary plan that it considers necessary for the PUD.

#### **SECTION 10.7 VILLAGE COUNCIL ACTION**

- A. After receiving the recommendation of the Planning Commission, the Village Council shall review the application package, preliminary development plan, the record of the Planning Commission proceedings and the recommendation.
- B. The Council shall then make its findings based on the standards for approval of Section 10.10 as to approval, approval with conditions, or denial.
- C. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary development plan to the Village Council.
- D. Upon receipt by the Village Council of the applicant's written acceptance of conditions and a revised preliminary development plan incorporating all required changes and conditions, the rezoning shall become effective.

#### **SECTION 10.8 FINAL DEVELOPMENT PLAN APPLICATION**

- A. Within twelve (12) months of the Village Council's approval of the PUD district, including the preliminary development plan, the applicant shall submit a request to the Zoning Administrator for final PUD approval. If the project includes phases, then the applicant must submit a request within twelve (12) months of the Village Council's approval of the PUD district for final approval of any phase.
- B. If the applicant fails to submit a request within twelve (12) months as stated above, then the preliminary site plan (not the PUD rezoning) shall be determined to be invalid. If a preliminary plan includes phases, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date of the initial phase. If the applicant fails to submit the next phase within this time period, then the preliminary site plan incorporating all phases not approved for final site plan shall be determined to be invalid. Upon request to the Village Council and in accordance with Section 10.13,A,1 and 2, the time frames may be extended for a reasonable period of time.
- C. A final development plan application shall consist of the following:
  - 1. A completed application form, supplied by the Zoning Administrator.
  - 2. Payment of a fee, as established by the Village Council.

3. A written response to the findings, review comments, and conditions, if any, from the Village Council's review and approval of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
- D. A site plan containing all of the information required in this PUD Chapter and as stated in Chapter 11, under Final Site Plan Review, Section 11.03,B,2,a. If the plan consists of phases, then the above mentioned information is only required for the specific phase(s) being presented for final approval. Each subsequent phase shall be reviewed in the same manner.

#### **SECTION 10.9 PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN**

- A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions of the PUD rezoning. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 10.05 -10.07 of this Ordinance.
- B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for approval stated in Section 10.10.
- C. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- D. Any zoning ordinance regulatory modification (i.e. - setbacks) shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD plan may be appealed to the Zoning Board of Appeals. This provision shall not hamper an individual lot owner from seeking a variance (e.g. - a residential garage variance related to setbacks) following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan.
- E. A table shall be provided on the final site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this PUD article and rezoning.

**SECTION 10.10 STANDARDS FOR APPROVAL (BOTH PRELIMINARY AND FINAL)**

Preliminary and final PUD's shall be approved only if they comply with each of the following standards:

- A. The proposed PUD complies with all qualifying conditions of Section 10.02.
- B. The uses to be conducted within the proposed PUD are substantially consistent with the Village of Fowler Master Plan ( If the Village develops a Master Plan).
- C. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- D. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community.
- E. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 10.01 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning.
- F. The proposed PUD meets all the review standards of Section 11.03,B,2,a.

**SECTION 10.11 PUD AGREEMENT**

- A. Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Village in recordable form, setting forth the applicant's obligations with respect to the PUD.
- B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Village Council.
- C. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
- D. The agreement shall also establish the remedies of the Village in the event of default by the applicant in carrying out the PUD, and such remedies shall be binding on all successors in interest to the applicant.
- E. All documents shall be executed and recorded in the office of the Clinton County Register of Deeds.

**SECTION 10.12 CHANGES TO AN APPROVED PUD**

Changes to an approved Final PUD shall be permitted only under the following circumstances:

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

**SECTION 10.13 TIME LIMIT FOR APPROVED PUD DISTRICT**

Each approved final PUD must be under construction within twelve (12) months after the date of approval of the PUD final development plan, except as noted in this Section.

- A. The Village Council may grant one (1) extension of up to an additional twelve (12) month period from the expiration date of the PUD of phase of a PUD if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:
  - 1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
  - 2. The PUD requirements and standards, including those of the Zoning Ordinance and Master Plan, that are reasonably related to said development have not changed.
- B. Should neither of the provisions of Section 10.14 A. be fulfilled, or an extension has expired without construction underway, the PUD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.
- C. Should the PUD district become null and void, then the Village Council has the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other

zoning classification(s). If the property is not rezoned, then the subject property remains zoned as a PUD, but the preliminary or final PUD plans previously approved become null and void. In order to utilize the property as a PUD, an applicant would have to submit plans for preliminary and final PUD site plan approval as stated in this Chapter, but would not require PUD rezoning action from the Council.