

CHAPTER XII

Planned Unit Development District

1201 CONFLICT.

Planned Unit Development Zoning Districts may be established by application in accordance with the provisions of this chapter and the requirements contained herein which shall take precedence over all other conflicting regulations contained in the Zoning Code and/or platting ordinances.

1202 PURPOSE AND INTENT.

The Planned Unit Development (PUD) District is established as an optional development tool to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership and variety of design, layout and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve significant natural, historical and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment and business opportunities particularly suited to residents; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the property and surrounding areas. It is the further intent of the PUD regulations to promote a higher quality of development than can be achieved from conventional zoning requirements in furtherance of the vision and goals of the Village of Kirkersville.

1203 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Planned Unit Development (PUD).” A “PUD” means an area of land in which one use or a variety of uses may be accommodated in a pre-planned environment under more flexible standards than those restrictions that would normally apply under this Zoning Code. The process in a PUD shall consist of a Preliminary Development Plan which shall constitute the act of zoning; and a Final Development Plan which shall consist of a detailed development plan for all, a portion of the area, or subareas within the Preliminary Development Plan.

1204 USES.

Within the Planned Unit Development (PUD) Zoning District, permitted uses shall include all uses allowable under the Zoning Code or a compatible combination of any or all of these uses provided the proposed location of any of the uses will not adversely affect adjacent property and/or public health, safety and general welfare. All zoning requirements for the PUD applicable to the proposed use shall be applicable to all uses in the PUD, unless modified in accordance with Section 1117.05.

1205 MODIFICATION OF MINIMUM REQUIREMENTS.

(a) District regulations applicable to a land use in the PUD may be altered from the requirements set forth in the Zoning Code, including but not limited to, lot width, building setbacks, height, lot coverage, signs, and parking. The PUD applicant shall identify, in the Preliminary and Final Development Plans, all intended and needed deviations from the zoning requirements. Modifications may be approved by the Village Council during the preliminary plan review stage, after Planning Commission approval and recommendation. These modifications will be permitted only if they result in a higher quality and more sustainable development consistent with the purpose of this Chapter.

(b) In addition to these modifications of minimum requirements, Village Council, after Planning Commission approval and recommendation, may permit an increase in the total number of residential units allowed with the PUD where it is demonstrated the PUD:

- (1) uses low-impact design and or best practices design principles to minimize storm water run-off;
- (2) preserves the best natural features of the site;
- (3) creates, improves, or maintains open space for the residents, employees, and other visitors to the PUD; and
- (4) contains at least 20% of the area as preserved open space. If the site contains, or is adjacent to a river, stream, or other body of water, the Village may require that all, or a portion of, the open space about the river, stream, or body of water.

1206 GENERAL PROCEDURES.

Procedures and conditions set forth for determination of Planned Unit Development Districts and development(s) therein shall be strictly followed except when the Planning Commission and Council have approved a written statement submitted with the rezoning application, by the applicant clearly showing that such procedures or conditions do not apply in the specific case.

1207 OWNERSHIP.

A Planned Unit Development shall be in joint or common ownership or control at the time the rezoning application is made for a Planned Unit Development District, or where joint or common ownership and/or control does not exist, each owner within the Planned Unit Development shall sign the application for rezoning. Any transfer of land within the Development resulting in ownership within the development by two or more parties after an application has been filed shall not alter the applicability of the regulations contained herein. A Development Plan approved hereunder shall be binding upon the applicant(s), their successors and assigns and shall limit and control the issuance of validity of all Certificates of Zoning approval.

1208 PLAN CONTENTS.

(a) The following described contents shall be provided to secure approval for Planned Unit Development (PUD) District zoning. The basic process shall require submittal and approval of a Preliminary Development Plan and Final Development Plan.

(b) All plans shall be drawn to a scale suitable to the scope of the project and acceptable to the Village. Ten (10) copies of each plan shall be submitted to the Code Enforcement Officer.

- (1) Contents of Preliminary Development Plan. The Preliminary Development Plan must clearly indicate the following in text and/or map form:
 - A. North point and scale
 - B. All existing roads, buildings, and permanent structures/facilities
 - C. A subarea plan which shows allocation of land by acreage, use, and density
 - D. Overall design of the proposed PUD
 - E. Architectural guidelines for each area
 - F. The location of any land to be dedicated to any public agency
 - G. Topography with slope classification system
 - H. Physical features and natural conditions of the site, including the location of all substantial tree masses
 - I. The location of all current and proposed easements, rights-of-way, and property boundaries
 - J. The location and size of areas of residential use, indicating dwelling unit densities, dwelling unit types, the total number of dwelling units for each density area, the total number of dwelling units in the development, and the estimated population of the project
 - K. The location and size of areas of commercial use, indicating the building size (height and square footage) and type
 - L. The size, location and use of nonresidential portions of the tract, including usable open spaces, parks, playgrounds, school sites and other public areas and open spaces with the suggested ownership of such areas
 - M. The provision of water, sanitary sewer and surface drainage facilities, including engineering feasibility studies or other evidence of reasonableness. All utility services shall be underground
 - N. The location of all streets and thoroughfares. The traffic circulation patterns, including ingress and egress locations for all public and private streets and parking areas, indicating their relationship to topography and existing streets, or showing other evidence of reasonableness
 - O. The schedule of site development, construction of structures and associated facilities. Such schedule shall include the proposed use or reuse of existing features such as topography, streets, easements and natural areas
 - P. The relationship of the development to existing and future land use in the surrounding areas, the street system, community facilities, services and other public improvements
 - Q. An affidavit of the applicant listing all property owners within the 300 feet, contiguous to, and directly across the street from the parcel(s) included in the Preliminary Development Plan and their addresses as appearing on the Delaware County Auditor's current tax list
 - R. A written statement regarding the potential impact of the proposed development on the student population of the local school district(s)

- S. Verification that an application, if required, has been submitted to the Ohio Environmental Protection Agency in compliance with Section 401 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain a Water Quality Certification Permit from the Ohio Environmental Protection Agency. In the case of an isolated wetland either a general state or individual state isolated wetland permit must be obtained from the Ohio Environmental Protection Agency (Sections 6111.021. - 6111.024. of House Bill 231)
 - T. Verification that an application, if required, has been submitted to the U.S. Army Corps of Engineers, in compliance with Section 404 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain either a nationwide or individual permit from the U.S. Army Corps of Engineers
- (2) Contents of Final Development Plan. Following approval of the Preliminary Development Plan, a Final Development Plan may be submitted for all or any part of the approved Preliminary Development Plan provided that no details of any Final Development Plans shall necessitate revision of portions of the approved Preliminary Development Plan. If revision of any portion of the Preliminary Development Plan is required, a revised Preliminary Development Plan shall be approved by the Planning Commission and all in accordance with the provisions of this Code before approval of the Final Development Plan. Council then shall be required to approve any change to the Preliminary Development Plan and the rezoning. A Final Development Plan may be submitted and approved at the same time as the Preliminary Development plan if the site will be developed in only one phase and within 1 year of approval. Final Development Plans are intended to be detailed representations of the total aspects of the approved Preliminary Development Plan. Contents of the Final Development Plan shall include:
- A. The boundaries of the property which is the subject of the Final Development Plan with accurate distances and bearings from an established monument on the project to the three nearest established street lines or official monuments
 - B. All municipal, corporation, township and county lines and section lines traversing or immediately adjacent to the property which is the subject of the Final Development Plan, and adjacent subdivision boundaries within 200 feet of such property, accurately referenced to the boundaries of the project by bearings and distances
 - C. A bar scale, north point, legal description and total acreage of the area which is the subject of the Final Development Plan
 - D. Accurate location of all monuments, which shall be concrete six inches by six inches by thirty inches with iron pipe cast in center, one such monument to be placed at each corner and at each change of direction of the boundary, at each street intersection and at the beginning and end of curves on one side of the street

- E. A certificate by a surveyor registered in the State of Ohio that the plan represents a survey made by him and that the monuments shown actually exist and that all dimensional and geodetic details are correct;
- F. Accurate outlines, dimensions and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for the common use of all property owners, and the acreage of such reserved areas
- G. The lines of adjoining streets and alleys with their width and names
- H. All lot lines and easements with their dimensions
- I. Radii, arcs, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners
- J. The dimensions and locations of proposed structures, buildings, streets, parking areas, yards, playgrounds, school site, open spaces and other public or private facilities; (This provision shall not apply to those areas of the Final Development Plan indicated for development of single family detached building sites. However, all lots intended to be so developed shall have building setback lines indicated thereon)
- K. A detailed statement of all uses proposed to be established indicated in the areas to be occupied by each use and the anticipated density of population and building intensity
- L. Detailed engineering plans for the provision of all streets and utilities including provisions for off-site connections and facilities necessary to serve the entire areas which are the subject of the Final Development Plan
- M. Detailed engineering site grading plans including proposed finished grades (This provision shall not apply to those areas of the Final Development Plan indicated for development of single family detached buildings sites.)
- N. Proposed drainage facilities
- O. Detailed landscaping plans (This provision shall not apply to those areas of the Final Development Plan indicated for development of single family detached homes, except that detailed landscaping shall be provided as to all residential entry features.)
- P. Architectural drawings demonstrating the design and character of the proposed structures, buildings, uses and facilities and the physical relationship of all elements; (In a one or two story building site this provision is intended to demonstrate the exterior design, character and general element of and within the plan and it is not intended to require a detailed presentation by the applicant. However, it should provide sufficient detail to enable the Planning Commission to make a decision.)
- Q. All proposed restrictions or reference made thereto and proper acknowledgment of owners and/or holders of mortgages accepting such restrictions
- R. Evidence that the applicant has sufficient control over the land in question to initiate the proposed project within two years;

- S. A certificate to the effect that the owner will dedicate to public use the appropriate uses, streets, parks and other lands intended for public use, provided those areas are acceptable to the Village
- T. A tabulate showing the exact area of each lot, reserve or other parcel shown on the plan (other than streets and alleys), such areas to be computed inclusive of and after the extension of lot or parcel lines to the center lines of contiguous public ways, such as streets and parking areas
- U. Approval of detailed water and sewer engineering plans by the appropriate agency
- V. Space for signature of the Planning Commission chair, vice chair or designee and the date of Commission approval
- W. Location and character of all signs
- X. The proposed size, location, ownership and use of nonresidential portions of the tract, including usable open areas, parks, playgrounds, school sites, other public areas and open spaces, and the methods of access whereby all residents of the PUD can have ingress to and egress from the aforesaid areas or portions of the tract whether such areas have been previously established or will be established in the future
- Y. An affidavit of the applicant listing all property owners within the 300 feet, contiguous to, and directly across the street from the parcel(s) included in the Final Development Plan and their addresses as appearing on the Franklin County Auditor's current tax list
- Z. Evidence that the Ohio Environmental Protection Agency has considered the applicant's application and, if required, granted such permit. If a permit was granted, four (4) copies shall be supplied by the applicant to the Code Enforcement Officer
- AA. Evidence the U.S. Army Corps of Engineers has considered the applicant's application, and if required, granted such permits. If a permit was granted, four (4) copies shall be supplied by the applicant to the Code Enforcement Officer

1209 BASIS OF PLAN APPROVAL.

The basis for approval of a Preliminary Development Plan shall be:

- (a) The proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code and this Chapter
- (b) The proposed development generally conforms with the Strategic/Comprehensive Plan or portion thereof as it may apply
- (c) The proposed development advances the general welfare of the Village
- (d) The benefits, improved arrangement, and design of the proposed development justify the deviation from standard development requirements included in the Zoning Code
- (e) Where applicable, the relationship of buildings and structures to each other and to such other facilities as are appropriate with regard to land area; proposed density of dwelling units may not violate any contractual agreement contained in any utility contract then in effect
- (f) Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area

- (g) Building heights of all structures with regard to their visual impact on adjacent facilities
- (h) Front, side and rear yard definitions and uses where they occur at the development periphery
- (i) Gross commercial building area
- (j) Area ratios and designation of the land surfaces to which they apply
- (k) Spaces between buildings and open areas
- (l) Width of streets in the project
- (m) Setbacks from streets
- (n) Off-street parking and loading standards
- (o) The order in which development will likely proceed in complex, multi-use, multi-phase developments
- (p) The potential impact of the proposed plan on the student population of the local school district(s)
- (q) The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required)
- (r) The U.S. Army Corps of Engineers 404 permit, or nationwide permit (if required).

1210 PROCEDURE FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT (PUD).

The following procedures shall be used to secure approval of a Planned Unit Development (PUD) and the appropriate changes of zoning resulting therefrom.

(a) The Preliminary Development Plan together with an application and application fee shall be filed with the Zoning Inspector. Within 30 days of the submittal, the Preliminary Development Plan and accompanying documents shall be forwarded to the Solicitor and an ordinance shall be drawn concerning the requested zoning change. The Preliminary Development Plan, accompanying documents and ordinance, shall then be forwarded to the Planning Commission for study and recommendation. Copies of the Preliminary Development Plan shall also be forwarded to the Village Engineer, and the Village Engineer and Zoning Inspector shall prepare a comprehensive staff report, which report shall have been received and reviewed by the Planning Commission prior to the Commission's recommendations being made to Council.

(b) The Planning Commission shall have a reasonable time not less than 30 days to consider the ordinance and the plan at a public hearing and to report its recommendations to Council. The Zoning Inspector, or his/her designee, shall notify all owners of neighboring properties as set out in the applicant's affidavit, of the time and place of the Commission's public hearing at which such Preliminary Development Plan will be considered. Such notices shall be served by first class mail posted at least ten (10) days before the date of the proposed hearing.

When the report and recommendations of the Commission are received by Council, Council shall establish a date for public hearing on the ordinance and the plan giving notice in accordance with the provisions of Section 1129.04. Such public hearing by Council shall be held within 90 days after the receipt of the report of the Commission unless such time period is extended by mutual agreement of the parties. Council cannot reverse or modify Planning Commission's decision without a vote of three-fourth of its members.

The report of recommendations of the Planning Commission on the Preliminary Development Plan and the ordinance, as well as the plan and the ordinance, shall be available for public inspection for the period of 30 days immediately preceding the public hearing. Adoption of the ordinance including the Preliminary Development Plan shall constitute a rezoning of the property included in the Preliminary Development Plan subject to the applicant's compliance with the provisions of subsections (c) through (f) hereof prior to the development or the construction of improvements contained in the preliminary plan.

(c) Within two years of notice of approval of the Preliminary Development Plan the applicant shall submit a Final Development Plan for the area contained within the approved Preliminary Development Plan. Upon good cause shown by the applicant and by a majority vote of the Planning Commission, the Commission may extend the two-year period if the request is submitted prior to the expiration date. Submittal of such plan shall be to the Code Enforcement Officer. The failure to submit a Final Development Plan within such two-year period (or any such extended period) shall invalidate any prior zoning approval given, forfeit fee payments and the property shall revert to its previous zoning classification. Within 30 days of official acceptance, the Final Development Plan and accompanying documents shall be forwarded to the Planning Commission for study and approval. Copies of the Final Development Plan shall also be forwarded to the Village Engineer, and the Village Engineer and Zoning Inspector shall prepare a comprehensive staff report, which report shall have been received by the Planning Commission prior to the Commission's action on the Final Development Plan.

(d) Following approval of the Preliminary Development Plan, a Final Development Plan may be submitted for all or any part of the approved Preliminary Development Plan provided that no details of any Final Development Plan shall necessitate revision of portions of the approved Preliminary Development Plan. If revision of any portion of the Preliminary Development Plan is required, a revised Preliminary Development Plan shall be approved by the Planning Commission and all in accordance with the provisions of this Code before approval is granted to the Final Development Plan. Council shall be required to approve the change at a public hearing which notice shall be given in conformance with Section 1129.04.

Final Development Plans are intended to be detailed representations of and in conformance with all aspects of the approved Preliminary Development Plan. Following receipt of a Final Development Plan and accompanying documents from the Zoning Inspector, it shall be the duty of the Planning Commission to review such plan and determine whether it complies with regulations of this chapter, that it represents a detailed and precise expansion and delineation of the previously approved Preliminary Development Plan, that it complies with all conditions which may have been given at the time of approval of the Preliminary Development Plan, or that before it can be considered, it requires an amendment of the Preliminary Development Plan.

The Zoning Inspector, or his/her designee, shall notify all owners of neighboring properties as set out in the applicant's affidavit, of the time and place of the Commission's public hearing at which such Final Development Plan will be considered. Such notices shall be served by first class mail posted at least ten (10) days before the date of the proposed hearing.

(e) If the Planning Commission finds the Final Development Plan complies in all respects with the regulations of this chapter and the previously approved Preliminary Development Plan,

the Commission shall approve the plan and the Commission chair, vice chair or designee shall affix his/her signature and approval date thereto attesting to such approval. Following approval of the Final Development Plan and the attestation of such action by the Commission chair, vice chair or designee, the applicant shall provide one copy of all plans as part of the Final Development Plan for records of the Village.

(f) A final subdivision plat prepared in accordance with applicable requirements of the subdivision regulations for the area covered by the Final Development Plan shall be prepared for Council approval prior to appropriate recording.

1211 RECORDING AND TRANSFER.

When a final plat is approved by Council, the owner shall file and record the same in the Office of the County Recorder within 12 months unless such time is, for good cause shown, extended by resolution of Council. If not recorded within this time, the approval of Council shall become null and void. If construction is not begun within two years of approval of the Final Development Plan, all approvals and permits shall be invalidated and canceled. Original tracings will become the permanent record of the County Recorder. One copy of this tracing, showing the date and place of recording, shall be supplied by the owner to Council as local public records. Such two-year period may be extended by the Commission for good cause.

1212 AMENDMENTS TO PUD.

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

(a) Notify Zoning Inspector. The holder of an approved PUD preliminary and/or final development plan shall notify the Zoning Inspector of any desired amendment to the PUD.

(b) Minor Change Determination. Minor changes may be approved by the Zoning Inspector upon determining the proposed amendment(s) will not alter the basic design and character of the PUD, nor any specified modifications imposed as part of the original approval. Minor changes shall include, but are not limited to, 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 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 which do not alter the exterior of the building, character of the use, or increase the amount of required parking;
- (5) internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design; or
- (6) changes required or requested by the Village or other county, state or federal regulatory agency in order to conform to other laws or regulations.

(c) Major Change Determination. A proposed change determined by the zoning Inspector to be a major, not 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 preliminary and/or final development plan.

1213 APPEAL.

If the Planning Commission disapproves the Final Development Plan, the applicant shall have thirty (30) days in which to file an appeal with the Council for review. Such appeal shall be in writing, filed within thirty (30) days of the disapproval, and shall be filed with the Zoning Inspector. Council shall then act within a reasonable time. Council cannot reverse or modify Planning Commission's decision without a vote of three-fourth of its members.