

ARTICLE IX

PLANNED UNIT DEVELOPMENT DISTRICTS

9-101. Purpose and Objectives. The following regulations shall apply to land use and structures within a Planned Unit Development District which, when approved by the Planning Board and Governing Body, may differ in one or more respects from the regulations that are applicable in any other zoning district, except the Flood Plain District and Airport Overlay District. The objectives of a Planned Unit Development District shall be to promote progressive development of land and construction by encouraging Planned Unit Developments (PUD's) to achieve:

- (A) A maximum choice of living environments by allowing a variety of housing and building types;
- (B) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of commercial uses and services;
- (C) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
- (D) A more efficient use of land than is generally achieved through conventional development;
- (E) A development pattern in harmony with land use density, transportation facilities, and community facilities;
- (F) An environment which provides safe, clean, convenient and necessary residential, commercial, and industrial facilities which will afford greater opportunities for better housing, recreation, shops and industrial plants for all citizens of the community;
- (G) A development plan which suits the specific needs of the site and takes into account the unique conditions of the property which may require changes of conventional bulk regulations, lot layout, or density; or results in a project that provides greater public benefit than would be provided under conventional zoning; and
- (H) A mixture of compatible uses which might not otherwise be permitted in a single district, or which may restrict the range of land uses more than in a single district.

9-102. Provisions Governing Planned Unit Developments. Because of the special characteristics of Planned Unit Developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Article and those of the other Articles of these

regulations or the Subdivision Regulations, the provisions of this Article shall prevail for the development of land in Planned Unit Developments. Subjects not covered by this Article shall be governed by the respective provisions found elsewhere in these regulations.

9-103. General Standards for Planned Unit Developments Districts. The district is designed to provide for the greatest amount of flexibility in the mixing of compatible uses and the location and type of structures for those uses while setting aside perpetual common use open space and facilities for owners, occupants and customers in the district. Standards applicable to all PUD's are as follows:

- (A) **Permitted Uses:** The applicant may propose any mixture of land uses, including accessory and temporary uses. Temporary uses are generally provided for under Section 5-201 of these regulations, unless they are disallowed through the PUD zoning process.
- (B) **District Size:** One-half acre for residential or commercial; one acre for industrial; one acre if industrial is combined with either residential or commercial. Manufactured Home Park developments shall be a minimum of 5 acres.
- (C) **Bulk Regulations including front, rear and side yard setbacks, and structure height:** Generally consistent with the existing zoning district on the proposed site and adjacent property, but may be altered for a specific site as proposed by the applicant.
- (D) **Maximum Lot Coverage:** If a Planned Unit Development is strictly for any one use, the total ground area occupied by structures for principal uses and accessory uses should not exceed the following specified percentages of the total ground area:

Residential	40 percent
Commercial	50 percent
Industrial	60 percent

A combination of any or all of these uses shall not exceed 50 percent of the total ground area, except in the case of a Planned Unit Development located within or adjacent to another zoning district which allows a greater coverage, then the greater coverage allowances may apply.

- (E) **Signs:** The applicant may propose a signage plan for the PUD and should include any potential temporary signage.
- (F) **Parking:** Off-street parking and loading areas shall be provided for all uses within the district in accordance with the requirements of Article 7 of these regulations, unless it is determined by the Planning Board and Governing Body that other parking ratios are more appropriate for a specific proposal.
- (G) **Guarantees:** The following guarantees shall be provided by the applicant prior to issuance of any building permits:

- (1) Landscaping and underground irrigation approved with the Final Development Plan shall be guaranteed by the applicant by providing a bond, certificate of deposit, letter of credit, or the equivalent in order to assure all landscaping and underground irrigation is installed.
- (2) A performance guarantee shall be required for proposed recreational facilities and improvements which will not be provided in the first phase of development but will be provided in subsequent phases.

9-104. Review Criteria. The following review criteria shall be used by the Manhattan Urban Area Planning Board and Governing Body, in addition to the matters considered with the establishment of any zoning district, in determination of the approval, approval with conditions or disapproval of a proposed PUD District.

(A) Landscaping

- (1) Proposed landscaping should be functional with respect to the proposed nature of the development and take into consideration where necessary: screening and buffering needs, preservation of existing vegetation and trees wherever possible, incorporate open and private space, the location of buildings, walks, streets, recreational areas, parking areas, utilities, drainage, finished grade and long term maintenance.

(B) Screening

- (1) When a nonresidential use abuts an existing residential use, screening shall be provided to assure year-round privacy to the residential use.
- (2) Outdoor storage areas must be adequately screened and outdoor display of commercial goods or materials shall not be allowed except in areas specifically designated for such activities and shall be adequately screened and enclosed.

(C) Drainage

- (1) The drainage system shall be designed in conformance with the adopted Stormwater Management Master Plan. Adequate easements shall be provided to protect drainage ways from encroachment and protect property from damage by periodic flooding. Provisions to insure the continued long term maintenance of private drainage facilities shall be provided.
- (2) Those sites affected by the 100 Year Flood Plain shall incorporate site and building design in compliance with the adopted Flood Plain Regulations.

(D) Circulation

- (1) An internal circulation plan shall provide for safe, convenient and efficient movement of goods, motorists and pedestrians. Conflicts between motorists and pedestrians shall be minimized.
- (2) Pedestrian traffic shall be accommodated as needed within the development and pedestrian systems shall connect to existing pedestrian systems or be designed to allow for future off-site connections.
- (3) Bicycle pathways should be incorporated into the design of vehicular and pedestrian traffic ways wherever possible, and connect, where possible, to off-site bikeways.
- (4) Adequate off-street parking and loading areas shall be provided.

(E) Open Space and Common Area

- (1) Applicants are encouraged to provide open space for the use of residents or users of the PUD. Common open space and other common use facilities shall be consistent with the planned function of the PUD and located to be convenient, readily accessible and visually attractive. Open space shall be left in its natural state or landscaped and maintained according to an approved landscape plan.
- (2) Open space should be located to maintain and protect flood hazard areas, and geological, cultural, natural habitat or historic sites.
- (3) Any proposal to dedicate open space to the public shall be reviewed for conformance with the adopted Comprehensive Parks Master Plan.
- (4) Provisions for the continuity, preservation, care, conservation and maintenance of all common open spaces and common use facilities shall be provided within the development plan.
- (5) Common use recreational facilities such as playgrounds and swimming pools shall be of such size to adequately serve the population for which they are intended. Such adequacy shall be determined in accordance with some recognized national standard which shall be referred to within the development plan.

(F) Character of the Neighborhood

- (1) The development should take into account the character of the area in which the development will be located and assure that proposed structures, signs and other improvements are compatible to both the proposed site and surrounding neighborhood.

9-105. Procedure for Application and Approval of Planned Unit Development Districts

- (A) Pre-application: At least thirty (30) days prior to submittal of an application for a Preliminary Development Plan, the applicant shall be required to meet with staff for a pre-development conference. The purpose of the conference is to discuss: application procedures, the proposed PUD, City policies, regulations and standards, mitigating actions, and to identify any other issues that need to be addressed.
- (1) After the pre-application conference and prior to submission of a Preliminary Development Plan application, the applicant is strongly encouraged to contact the neighborhood surrounding the development to: discuss the proposal; identify the concerns, values and anticipations of the neighborhood; weigh alternative proposals; and if considered necessary, make changes to the proposed development. It is the responsibility of the applicant to contact the neighborhood, and it is suggested that the neighborhood should at a minimum include that area within the boundary for notification as required for the Preliminary Development Plan. While this meeting is not mandatory, issues that are not adequately addressed by the applicant could affect the outcome of the project.
- (B) Preliminary Development Plan
- (1) An applicant seeking the establishment of any Planned Unit Development District shall submit to the Planning Board a Preliminary Development Plan application for approval. The filing of an application for the establishment of a Planned Unit Development District shall be in the same manner as prescribed for the establishment of any zoning district.
- (2) The Preliminary Development Plan drawing shall be prepared so as to serve in lieu of a Preliminary Plat, as defined by the Subdivision Regulations of the City.
- (3) Application Review and Action by Planning Board and Governing Body:
- (a) The Community Development Department, upon receipt of a complete application for the establishment of a Planned Unit Development District, shall review the Preliminary Development Plan, and shall proceed with the publishing of a public notice for a public hearing before the Planning Board as prescribed in Article XV for the establishment of any zoning district. An incomplete application shall be returned to the applicant along with a statement describing information that must be provided prior to publication.

- (b) The Planning Board and Governing Body shall act upon the application for the establishment of the Planned Unit Development District as prescribed in Article XV for the establishment of any zoning district.
 - (c) In the case of the approval of the application by the Governing Body, an ordinance shall be passed establishing the Planned Unit Development District. Such ordinance shall specifically include the following:
 - (1) Wording which incorporates into the ordinance by reference all drawings and documents submitted as a part of the application, or as revised by the applicant, or as may be revised by the Governing Body, in accordance with the requirements set forth by the Governing Body.
 - (2) A description of the boundaries of the Planned Unit Development District.
 - (3) Any restrictions, conditions, and use limitations established by the Governing Body.
 - (d) Immediately following the establishment of the Planned Unit Development District, the Zoning Administrator shall notify the applicant by letter of such action and shall advise the applicant of required action as set out in paragraph 9-105 (4).
 - (e) An approved Preliminary Development Plan for a Planned Unit Development established by ordinance of the Governing Body shall not be revised except by rehearing and reapproval in accordance with the provisions contained herein for the original action on the Preliminary Development Plan.
- (4) Action by the Applicant:
- (a) Upon approval of the application and the establishment of the Planned Unit Development District by the Governing Body, and prior to submission of the Final Development Plan application, the applicant shall file a statement with the County Register of Deeds containing all of the following:
 - (1) The legal description of the Planned Unit Development District.
 - (2) A statement that the Planned Unit Development District has been established and that the Preliminary Development Plan is on file with the Zoning Administrator.
 - (3) A statement specifying the nature of the plan, the proposed

density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of the land of the existence of such a plan and binding successors and assigns to the plan.

(C) Final Development Plan

- (1) Before the issuance of any building permit or before any development commences, the applicant shall submit and have approved a Final Development Plan and Final Plat. The Final Plat shall be of record before any development commences. Such plan shall be submitted within the time limits set out in Section 9-107(B).
- (2) The Planning Board shall review the Final Development Plan for conformity to any and all parts of the approved Preliminary Development Plan and the Ordinance(s) that established the Planned Unit Development District. The Final Plan shall be deemed to be in substantial compliance with the Preliminary Plan if the Final Plan does not include substantial modifications as established in Section 9-108(A).
- (3) The Planning Board is not required to hold a public hearing in the process of evaluating a Final Development Plan which meets the standards for substantial compliance. However, the Planning Board may require the applicant to show good cause for any modifications contained in the Final Plan and if, in the opinion of the Board, the modifications are not in the public interest the Board may require the applicant to make satisfactory revisions to the Final Plan as a condition for the granting of approval.
- (4) A Final Development Plan which is in substantial compliance with the Preliminary Development Plan and the Ordinance(s) that established the Planned Unit Development District shall be approved by the Planning Board within 60 days after consideration of such Final Development Plan.
- (5) A Final Development Plan which is not in substantial compliance with the Preliminary Development Plan or contains modifications which are judged by the Planning Board to not be in the public interest, shall not be approved by the Planning Board and the Board shall discuss recommended revisions with the applicant. If the applicant does not agree to the revisions suggested by the Planning Board, or otherwise declines to revise the plan as submitted, the Planning Board may deny approval of the plan and return it to the applicant with a written notice setting forth the reasons why one or more modifications are not in the public interest. Such notice shall be mailed within 60 days of the decision to deny the Final Development Plan.

- (6) Following the denial of a Final Development Plan by the Planning Board, the applicant may choose to revise the plan in accordance with the recommendations of the Planning Board and resubmit it for approval, or may within 30 days of receipt of notice of denial, choose to appeal the decision of the Planning Board to the Governing Body. In the case of such appeal, the Governing Body shall conduct a public hearing on the matter in the same manner as required for a Preliminary Development Plan and, following the public hearing, shall approve or deny the Final Development Plan as submitted. In the case of denial, the Governing Body shall notify the applicant in writing stating the reasons for denial.
- (7) Following approval of a Final Development Plan by the Planning Board, or approval upon appeal by the City Governing Body, all required signatures shall be affixed to the Final Development Plan. The Final Development Plan and all other Final Plan documents shall be filed in the Zoning Administrator's Office.
- (8) A Final Plat shall be submitted with the Final Development Plan for consideration and approval. Final Plats shall be considered and approved according to the Subdivision Regulations and for conformity with the approved Planned Unit Development. In all cases, a Final Plat and all applicable Owners Association Documents must be approved and filed at the Register of Deeds Office prior to the issuance of any building permits. In cases where the as-built location of buildings and structures will determine the final, precise location of lot lines or common area boundaries, the applicant shall submit final as-built replats, by phase, to be considered and approved in accordance with the Subdivision Regulations and the approved Planned Unit Development.
- (9) Following completion of all requirements of the Final Development Plan process, the applicant may apply for building permits, provided that all parts of the application for such permits are in full accord with the Final Development Plan and the Ordinance(s) that established the Planned Unit Development District.

9-106. Application and Submittal Requirements**(A) Pre-Application**

- (1) A sketch plan shall be provided using information such as USGS maps, aerials or other sources and may be a free hand pencil drawing that is drawn to scale, 1" = 100' is preferred;
- (2) The sketch plan shall contain the following:
 - (a) Approximate topography or some indication of ridge lines and steep slope area;
 - (b) Location and direction of all water courses and areas subject to potential flooding;
 - (c) Natural features such as rock outcroppings, marshes, lakes, wooded area and isolated preservable trees;
 - (d) Approximate location of existing structures (i.e. buildings, bridges or culverts), utility lines or other above-ground structures on or adjacent to the tract;
 - (e) Existing zoning, proposed zoning and land uses of the site and adjacent areas;
 - (f) Location of property lines, existing easements or rights-of-way on or adjacent to the tract showing also the width and purpose;
 - (g) Approximate location and size of existing sewers, water mains, gas mains and other underground structures on, or adjacent to the tract;
 - (h) Location of existing and proposed common areas and public facilities such as schools, parks, playgrounds, open space and other public areas or features on or adjacent to the tract;
 - (i) Approximate location and widths of proposed streets and preliminary proposals for connection with existing water supply and sanitary sewer;
 - (j) The layout of proposed residential lots, commercial and/or industrial areas; and
 - (k) Other information necessary to adequately discuss the proposed Planned Unit Development.

(B) Preliminary Development Plan

- (1) All fees and a complete application on the forms provided by the City shall be submitted consisting of five (5) copies of all drawings and one

- (1) copy of all written documents;
- (2) The Preliminary Development Plan shall be drawn to a scale no less than 1" = 100' on 24 x 36 inch paper sheets using an engineer scale;
- (3) One 8½ x 11 inch or 11 x 17 inch reproducible reduction of each plan sheet shall be submitted;
- (4) The following information shall be shown on site plan drawings:
 - (a) The proposed name of the development. This name shall not duplicate or resemble the name of any existing development or subdivision within the City or the County. Names of new developments shall not be so similar in sound and/or spelling to existing developments or subdivisions as to cause confusion or misunderstanding. Development names shall be subject to the review of the Planning and Engineering Divisions;
 - (b) The true north point, scale of drawing including a graphic scale, and the date;
 - (c) A vicinity map outlining the location of the development in relation to major streets within 1,000 feet of the proposed development and the existing zoning on and adjacent to the site;
 - (d) Names of adjacent subdivisions or, in the case of unplatted land, the name of the owner(s) of adjacent property;
 - (e) The name and address of the owner(s), the applicant/developer (if different), and the licensed professional engineer who prepared the plan;
 - (f) The location, widths and names of all existing public or private streets within or adjacent to the tract, together with easements, rights-of-way and other important features such as section lines and corners, city boundary lines and monuments;
 - (g) Contour lines or spot elevations based on USGS datum (with date of survey) having the following intervals:
 - (1) Two (2) foot contour intervals; or
 - (2) Spot elevations where the ground is too flat for contours;
 - (3) Five (5) foot contour intervals when the slope exceeds five percent (5%);
 - (4) Ten (10) foot contour intervals when the slope exceeds fifty percent (50%);
 - (5) Any other contour intervals deemed necessary or appropriate by the Engineering Division;

- (h) The location and direction of all watercourses and areas subject to flooding including identification of the 100-year Flood Plain and the Flood Plain zones (i.e., Floodway and Floodway Fringe) including base flood elevations;
- (i) Natural features such as rock outcroppings, wet lands, marshes, lakes, wooded areas, and isolated preservable trees;
- (j) The location of all existing structures noting those that will be removed and those that will remain on the property;
- (k) The horizontal and vertical location, direction of flow and size of all existing utilities and drainage improvements adjacent to, and within the proposed subdivision;
- (l) Location, elevation and description of the bench mark controlling the vertical survey;
- (m) Distance and direction to the monuments used to locate the tract;
- (n) Proposed streets showing the location, names, widths and approximate grades, and the relationship of all existing streets to any proposed streets;
- (o) Easements showing width and purpose;
- (p) Lots showing approximate dimensions, square footage and proposed lot numbers. Numbering of lots shall be in a consecutive order in a logical sequence;
- (q) Location, size and type of all existing and proposed utilities, including direction of flow;
- (r) Sites to be dedicated or reserved for park, playground or other public purposes;
- (s) Front building setback lines along all rights-of-way and travel easements;
- (t) The location, width, and construction material of existing and proposed sidewalks, and how they connect to nearby sidewalks;
- (u) Clearly defined lines showing the boundaries of common open spaces;
- (v) Clearly defined lines showing the boundaries of phases and stages of development, if any, that the applicant proposes as a part of the Planned Unit Development;
- (w) The location of all proposed buildings, signs, other structures and drives and parking areas;

- (x) A table showing the following lot coverage data:
 - (1) Percentage and square footage (or acres) of buildings;
 - (2) Percentage and square footage (or acres) of all driveways and parking areas;
 - (3) Percentage and square footage (or acres) of public and/or private streets;
 - (4) Percentage and square footage (or acres) of open space and/or landscaped area;
 - (5) Percentage and square footage (or acres) of “active recreational” areas; and
 - (6) Net density for residential development;
 - (y) A title block stating “Preliminary Development Plan _____”, followed by the proposed name of development and the date on each plan sheet; and
 - (z) Certificates:
 - (1) A certificate stating “Approved by the Manhattan Urban Area Planning Board this _____ day of _____”, and signature lines for the Chairperson and Secretary of the Planning Board;
 - (2) A certificate stating “Approved and Established as a Planned Unit Development District by City Ordinance No. _____, dated _____, and placed on file in the Zoning Administrator’s Office”, and a signature line for the Zoning Administrator;
 - (3) A certificate stating “Certificate of the City Commission. Approved this _____ day of _____, Board of City Commissioners of the City of Manhattan” and signature line for the Mayor, City Attorney and City Clerk.
- (5) A separate Preliminary Landscaping and Screening Plan shall include the following:
- (a) A landscape plan showing existing trees and plant coverage, noting trees and vegetation to be saved, and showing proposed landscaping. Notes or legends indicating plant sizes, types i.e., evergreen or deciduous, and the range of common name species that are proposed shall be included;
 - (b) Soils and geology of steep slopes and other areas susceptible to

- erosion and the proposed methods of dealing with these conditions during and after construction;
- (c) Proposed entryways, streets, drives and parking areas with a layout of the parking spaces and showing pedestrian circulation on and adjacent to the site. Any proposed bikeways should also be shown;
 - (d) Proposed screening throughout the site and materials to be used, giving particular attention to appropriate screening of adjacent properties;
 - (e) Proposed passive open space areas and active recreation areas such as pools, tennis courts and other similar uses; and
 - (f) Proposed irrigation plan.
- (6) Other Related Plans. The following plans and information may be submitted separately or combined with other plan sheets:
- (a) A signage plan generally indicating location, dimensions, materials and lighting of all signage, both permanent and temporary, including elevation drawings and showing locations on buildings; and
 - (b) A lighting plan generally indicating the location, type, intensity, height, and direction of all exterior building, parking and other lighting, giving particular attention to mitigating impacts on adjacent property and streets.
- (7) Architectural Plans. Preliminary floor plans and building elevations for all proposed buildings, including dimensions and proposed exterior materials.
- (8) Preliminary Development Plan documents shall be prepared by the applicant and submitted along with the drawings as a part of the Plan and Application, and shall include all of the following statements and documents:
- (a) An overall project statement including the market being served and the list of proposed land uses, including temporary and accessory uses, if any;
 - (b) A list of all parties involved in the proposed project including their address, the nature of their interest, and ability to complete the project as proposed;
 - (c) Why, in the applicants' opinion, the proposed district would be in the public interest and would be consistent with the stated purpose and objectives, and the Review Criteria for Planned Unit Development Districts;

- (d) The substance of covenants or other restrictions proposed to be imposed upon the use of the land, buildings and structures and any other provisions which are proposed to run in favor of the residents and owners of the Planned Unit Development;
- (e) The substance of the covenants or other restrictions, if any, proposed to run in favor of the City, beyond or in lieu of those proposed to be platted;
- (f) The form of agency proposed to own and maintain the common use open spaces and facilities, streets and parking areas shown as a part of the plan;
- (g) A plan may provide for completion of the development in phases and, in such cases, the plan shall specifically state those areas included in each phase and the time schedule for construction of each phase. The development time schedule shall include provisions for:
 - (1) Completion of streets, drives, walks and minimum parking and loading facilities coincident with the completion of structures requiring such facilities;
 - (2) Completion of the landscaping and planting of common use and private areas coincident with the completion of structures adjacent to those areas; and
 - (3) Completion of common use recreational facilities coincident with the completion of residential structures creating the need for such facilities;
- (h) How the development does or does not conform to the adopted Comprehensive Land Use Plan. If not in conformance, then why in the opinion of the applicant the development should be approved or those circumstances that will mitigate conflicts of use;
- (i) How the development respects the character of the adjacent neighborhood and how the proposed buildings, structures and open space relate to those in the surrounding neighborhood;
- (j) A traffic impact analysis explaining how traffic circulation will provide safe, convenient and efficient movement of goods and people with a minimum of conflict between various modes of transportation, as well as, how pedestrian or bikeways will integrate within the site and to surrounding areas. Traffic volume projections, sight and stopping distance analysis and other studies shall be provided as required by the Engineering Division;
- (k) A statement concerning proposed open space, common area, or active recreational areas;

- (l) A statement concerning any proposed business or industry, the hours of operation and proposed numbers of employees;
 - (m) A drainage plan and report consistent with the adopted Storm-water Management Master Plan including calculations and tables for pre-development and post development and all drainage structures associated with the development, maps of the drainage area(s) used for calculations, locations and sizes of proposed drainage structures on a grading plan which shows existing and proposed contours, and a clear written explanation of the overall design philosophy used;
 - (n) Utility releases from appropriate utility companies;
 - (o) An explanation, if applicable, of all off-site improvements that are necessary as a result of the proposed development;
 - (p) A narrative describing the process of notifying the neighborhood of the proposed PUD, extent of notification, where and when the meeting took place, suggestions by those in attendance, issues raised and compromises reached, any consensus and any other information the applicant considers relevant; and
 - (q) Any additional information, reports or documents that the Zoning Administrator, Planning Board, or Governing Body may require in order to adequately review the development.
- (C) Final Development Plan: A complete application and all fees for a Final Development Plan shall be submitted within the time frame established by the Community Development Department prior to the Planning Board meeting. The applicant shall submit five (5) copies of all drawings and one (1) copy of all written documents constituting the Final Development Plan which shall include:
- (1) Submit a separate Final Plat in conformance with the Subdivision Regulations with a title block clearly indicating the development is a PUD and including the certificate referencing the Ordinance number establishing the PUD.
 - (2) The Final Development Plan shall be drawn to a scale of no less than 1" = 100' on 24 x 36 inch format. Once final corrections have been made, the Final Plan sheets and Final Plat shall be submitted on mylar.
 - (3) One 8 ½ x 11 inch or 11 x 17 inch reproducible reduction of each plan and plat sheet shall be submitted.
 - (4) Final Development Site Plan drawings of all Preliminary Plan sheets shall be submitted including:

- (a) all revised notes and land use data tables;
 - (b) A title block stating “Final Development Plan _____” followed by the name of the development and a statement of the kind of Planned Unit Development District (Residential, Commercial, Industrial or Combined) that has been established; and
 - (c) The following note shall be placed on all Final Plats and Replats: All development within the _____ (name of PUD) Planned Unit Development shall conform to the approved Final Development Plan and Ordinance No. ____ dated ____ (as may be amended).
- (5) Final Landscape Plans shall be submitted with the Final Development Plan and shall contain finalized proposals that comply with the approved Preliminary Landscape Plan, comply with the following design standards and contain the following information:

- (a) The Final Landscape Plan providing for a mixture of evergreen and deciduous plantings suitable for the local climate. All plant materials shall meet the specifications of the American Association of Nurserymen (AAN). All trees shall be balled and burlapped, or the equivalent. The proposed plan will be reviewed for local adaptability and all plantings must conform to the following minimum sizes at the time of planting:

<u>TYPE</u>	<u>SIZE</u>
Standard deciduous trees	2½” caliper measured 1 foot above the ground
Small ornamental and flowering trees	2½” caliper measured 1 foot above the ground
Evergreen trees	6’ in height
Shrubs and hedges	Five gallon or adequate size consistent with design intent

- (b) A legend indicating the common and botanical name, size, and quantity of all plantings, by phase, including the quantity and type of sod and/or seed, and mulch. All plants shall be clearly labeled on the Plan or referenced by clear symbols in the legend.
- (c) All areas to be seeded or sodded shall be clearly marked;
- (d) Flower and shrub bed boundaries must be clear and shall be drawn to scale;
- (e) For existing plant material that will be retained, its location, size, common and botanical name and number, drawn to scale, shall be clearly indicated on the plan;

- (f) A final irrigation plan shall be provided. Locations of watering sources shall be identified if an underground sprinkler system was not required with the Preliminary Plan.
 - (g) Mature sizes of trees and shrubs shall be drawn to scale.
 - (h) Location of all screening, materials to be used, size and timing for construction or planting shall be clearly marked on the plan.
 - (i) Pedestrian walkways, parking areas, bike paths, materials, dimensions, and timing of construction shall be clearly indicated on the plan.
- (6) Final architectural plans and elevations for all buildings and structures shall be provided that show:
- (a) dimensioned elevations of all sides, indicating proposed exterior materials, colors, roof materials;
 - (b) dimensioned floor plans for all buildings;
- (7) Final Exterior Lighting Plan for all buildings, structures, parking lots and other areas, showing locations, elevations, type and intensity of all proposed lighting, giving specific information on shielding and directional lighting characteristics to prevent glare on adjacent streets and property.
- (8) Final Grading, Drainage and Utility Plans. Final grading and drainage plans shall utilize the same contour interval as the Preliminary Plan and shall include statements about the specific methods of erosion control during and after construction. Drainage plans shall include all final calculations and design drawings of all drainage structures.
- (9) Final Signage Plan indicating locations, elevations, dimensions, materials, colors and lighting of all proposed signage. If temporary signage was approved with the Preliminary Plan, a statement indicating types, locations and numbers shall be provided.
- (10) Any other information the Zoning Administrator, Planning Board, or Governing Body may require in order to give complete and full consideration to the Final Development Plan.
- (11) Final Development Plan written documents shall be prepared by the applicant and submitted along with the drawings as a part of the Plan and shall include all of the following:
- (a) Covenants or other restrictions concerning the use of land, buildings and structures and other provisions running in favor of the residents and owners.
 - (b) Covenants, easements or other restrictions, other than those being

platted, running in favor of the City, which are necessary to provide compliance with any requirement or condition of the approved Preliminary Development Plan.

- (c) Applicable by-laws and other regulations for the agency which will own, manage and maintain the common use open space and facilities and at what point the ownership and/or maintenance shall be transferred. Proof that such an agency has been or will be legally established shall be provided. Such by-laws and regulations shall specifically provide:

- (1) That the agency owning and maintaining the common lands and facilities shall not be dissolved or permitted to dispose of any of the common lands and facilities without first offering to dedicate the same to the City or some other government agency; and that

- (2) The agency owning and maintaining the common lands and facilities shall provide care and management to prevent the loss of taxable value and avoid the creation of a public nuisance within the district. In the event of failure of that agency to fulfill its duties, the City shall have the right to serve notice on the agency demanding that specified deficiencies be remedied within a specified time limit and, upon failure of the agency to act upon the matters as specified, the City shall have the right to enter upon the property and repair the specified deficiencies, the cost of same being assessed against the properties within the district and becoming a tax lien on those properties.

9-107. Abandonment or Failure to Proceed

- (A) If the owner(s) of record chooses to abandon an approved Preliminary Development Plan or an approved Final Development Plan, the owner(s) shall so notify the Planning Board and Governing Body in writing and submit a complete application and fee to rezone the Planned Unit Development area to the zoning district classification which existed just prior to the application for Planned Unit Development District or the landowner may make application for rezoning to some other zoning district classification and the Planning Board shall consider the application in the same manner as for any application for rezoning.
- (B) If the owner(s) of record fails to submit a Final Development Plan or Plans to the Planning Board within the time limits that are made a part of the Preliminary Plan, or; in the absence of such time limits, within two years following the approval of a Preliminary Development Plan; or fails to commence the construction of an approved Final Development Plan within 18 months of the approval date of the Final Plan, and has not applied for an extension to the

above time limits from the Planning Board, the Planning Board shall revoke its approval of the Preliminary Development Plan or Final Plan and shall so notify the owner(s) of record and the Governing Body in writing. If, within 30 days of receipt of the notice of such revocation, the owner(s) of record does not present to the Planning Board an application for reinstatement of the Preliminary Development Plan or Final Development Plan, the Planning Board shall consider that the plan in question has been abandoned by the owner(s) of record and shall proceed with rezoning the Planned Unit Development to an appropriate classification, and charge all fees to the owner of record.

9-108. Amendments and Modifications

- (A) Substantial modifications to an approved Preliminary Development Plan or an approved Final Development Plan shall constitute an amendment of the Plan, requiring public notice and a public hearing in the same manner as required in Section 9-105 (B)(3)(a). Application for such amendments shall follow the same procedure described in Section 9-105 (A) and (B), except that the necessary supporting documentation and drawings to be submitted shall be established during the pre-application meeting by the Zoning Administrator. Additional information may also be requested by the Planning Board or Governing Body.
- (B) Matters to be considered for an amendment. In addition to the matters to be considered for a Preliminary Development Plan, the Planning Board and Governing body shall also address the following matters:
 - (1) Whether the proposed amendment is consistent with the intent and purpose of the approved PUD, and will promote the efficient development and preservation of the entire PUD;
 - (2) Whether the proposed amendment is made necessary because of changed or changing conditions in or around the PUD, and the nature of such conditions; and
 - (3) Whether the proposed amendment will result in a relative gain to the public health, safety, convenience or general welfare, and is not granted solely to confer a special benefit upon any person.
- (C) Substantial modifications shall include:
 - (1) Changes or additions to land use from those approved with the PUD;
 - (2) An increase in the net residential density of more than 5%;
 - (3) An increase in floor area of a residential building of more than 10%;
 - (4) An increase in lot coverage of a residential building of more than 10%;
 - (5) An increase in floor area of a nonresidential use by more than 10%;

- (6) A reduction of open space, or a substantial relocation of open space that would change the character of the development;
 - (7) A substantial change to the site plan, grading plan or drainage plan;
 - (8) Any change that may affect the character or quality of the development, or affect the compatibility with nearby properties. Such changes might involve, but are not limited to the following: the architecture or proportions of buildings and structures, exterior building materials, landscaping and screening, signage, lighting, parking, setbacks, or the deletion of buildings, structures or common use amenities;
 - (9) Changes to the traffic circulation plan which may result in adverse impacts within the development or on nearby streets or properties; and
 - (10) Deletions or changes to any restrictions, conditions, or limitations that were established as part of approval of the Preliminary Development Plan or the Ordinance that established the Planned Unit Development.
 - (11) Construction of telecom structures, as defined by Article XII, except when the ordinance(s) that establishes and controls the PUD expressly permits telecom structures in its text, rather than by reference to another zoning district in these regulations.
- (D) Minor modifications
- (1) Minor modifications to an approved Final Development Plan which have an insignificant effect on the character or impact of the development may be administratively approved by the Zoning Administrator, provided such modifications do not include substantial modifications, as established herein, or any change in the use of land, the intensity of land uses, or, except as provided herein, an increase in residential density.
 - (2) The Zoning Administrator may require any information or drawings to scale in order to consider approval of a minor modification.
 - (3) If a minor modification is not approved by the Zoning Administrator, the decision may be appealed to the Planning Board for a final decision.

9-109. Enforcement

- (A) The violation of any provision of Article IX, may subject that person to enforcement provided for in Article XIV, Part 8, Section 14-802.