

ARTICLE 21

PLANNED UNIT DEVELOPMENT ZONING DISTRICT

2101. Purpose and Objectives.

The following regulations shall apply to land use and structures within a Planned Unit Development zone which, when approved by the Planning & Zoning Commission and the Board of Supervisors, may differ in one or more respects from the regulations that are applicable in any other zoning district, except the Flood Plain 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) The establishment of rural residential developments and similar land use projects containing various dwelling types, necessary commercial centers, off-street parking areas, open space for recreation, and to preserve a residential atmosphere.
- (B) The development of commercial, industrial and similar land use projects containing various commercial and industrial types, off-street parking areas, open space to preserve a semi-rural atmosphere.
- (C) The development of recreational and similar land use projects containing various supporting residential and commercial facilities, off-street parking areas, open space to preserve a rural atmosphere.
- (D) Deviations from design standards for the specific zone or zones may be permitted provided open spaces are developed and maintained for the use of the occupants and provided further that the parcel size, soil conditions, terrain, ground cover and other significant natural features favor this type of development.
- (E) 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;
- (F) A more efficient use of land than is generally achieved through conventional development;
- (G) A development pattern in harmony with land use density, transportation facilities, and community facilities;
- (H) 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;

- (I) A development plan which suits the specific needs of the site and takes into account the unique conditions of the property which may require deviations of regulations, lot layout, or density; or results in a project that provides greater public benefit than would be provided under conventional zoning; and
- (J) 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.

2102. 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 County regulations.

2103. General Standards for Planned Unit Development Zones.

The PUD Zone is designed to provide for the greatest amount of flexibility in the mixing of compatible uses 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) A Planned Unit Development project will provide careful application of design encouraging a more functional, aesthetically pleasing and harmonious living and working environment which otherwise may not be possible by strict adherence to other zoning district requirements. In all cases a planned unit development design shall together with dwelling types and land use, complement each other and harmonize with existing and proposed land uses in the area.
- (B) A Planned Unit Development shall contain nine (9) or more acres, with smaller parcels requiring approval from the Planning and Zoning Commission. Submission of documents detailing method of title conveyance, type of estate to be granted, method of maintenance of open areas and service areas, conditions of use of the open or recreation areas, as per County regulations or other state statutes and regulations applicable to the particular development shall be made to the Planning Commission for its review and subsequent action.

- (C) Permitted Uses: The applicant may propose any mixture of land uses, including accessory uses.
- (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, (not including roads or trails) shall not exceed the following specified percentages of the total ground area:

Residential	40 percent
Commercial	50 percent
Industrial	60 percent
Recreational	50 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 must include a signage plan, conforming to Article 7 of the Zoning Ordinance, for the PUD and shall 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 Article 6 of the Zoning Ordinance unless it is determined by the Commission 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, roads 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, roads and underground irrigation is installed prior to any sales.
 - (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.

2103A. Rural and Residential Types of Planned Unit Developments.

- (A) Rural and residential planned unit development property uses may be designed to contain mixtures of single-family dwellings, and multiple

family dwellings including townhouses, condominiums, apartments, or patio houses, 'zero' lot line dwellings, either single or two-story in height. The proposed structures may be arranged individually, in groups, or in clusters, without regard to lot areas or immediate density, providing an appropriate amount of land is set aside under a common ownership of all the property owners for permanent recreation and open space uses.

- (B) The purpose of the rural and residential planned unit development is to provide for rural and residential development wherein variation in the lot size, dwelling types and open space about them is warranted due to topographical or other considerations.
- (C) The owners and/or authorized agents of a site shall submit to the Director of Planning, architectural and site drawings to fully illustrate the complete development of that site as a planned unit development.
- (D) The Planning Department shall then present its written staff report and recommendations to the Planning and Zoning Commission for its review and approval.
- (E) The recommendation of the Planning and Zoning Commission shall include the reasons for approval or disapproval of the PUD Plan, and if recommended for approval specific evidence and facts showing that the plan meets with the following:
 - (1) That the buildings shall be used only for the stated purposes, and customary accessory uses such as off-street parking, and community or public facilities.
 - (2) That the average lot area per building type, exclusive of the area occupied by streets, shall be not less than that required by the zoning district regulations otherwise applicable to the site.
 - (3) That the proposed planned unit development will not adversely affect adjacent property or permitted use thereof.
- (F) The recommendations of the Planning Commission may include reasonable conditions as deemed necessary to promote the purpose of these regulations including but not limited to the following:
 - (1) That the buildings shall be used only for single-family, two-family or multiple family dwellings, customary accessory uses such as off-street parking and community facilities.

- (2) That the average lot area per dwelling unit, exclusive of the area occupied by streets, shall not be less than that required by the zoning district regulation otherwise applicable to the use and site.
 - (3) That the proposed residential planned unit development will not adversely affect adjacent property or the permitted use thereof.
- (G) The recommendation of the Commission may include reasonable conditions as deemed necessary to promote the purpose of these regulations including but not limited to the following:
- (1) Yards and open space;
 - (2) Fences and yards;
 - (3) Regulations of points of vehicular ingress and egress;
 - (4) Regulation of Signs;
 - (5) Landscape and maintenance thereof;
 - (6) Maintenance of grounds;
 - (7) Time limit within which the proposed residential planned unit development shall be developed.
- (H) Building permits that are in accordance with the approved drawings may be issued even though the use of land and the location of the buildings to be erected do not conform to the zoning district regulations otherwise applicable to the site.
- (I) The establishment of the residential planned unit development may be accomplished in any rural or residential zoning district and not in any other zoning district.
- (J) Amendments shall be processed in the same manner as the initial plan to develop a sited residential planned unit development.
- (K) Neighborhood Planned Unit Development. When a neighborhood planned unit development is granted, the property uses may be designed to contain a range of dwelling types, necessary shopping center, off-street parking areas, parks, playgrounds, school sites and other community facilities.
- (L) Time limit within which the proposed commercial planned unit development shall be developed.

- (1) Building permits that are in accordance with the approved drawings may be issued even though the use of land and the location of the buildings to be erected do not conform to the zoning district regulations otherwise applicable to the site.
- (2) The establishment of the commercial planned unit development may be accomplished in any rural or residential zoning district upon approval by the Planning and Zoning Commission.
- (3) Amendments shall be processed in the same manner as the initial plan to develop a site as a commercial planned unit development.

2103B. Commercial Type of Planned Unit Developments.

- (A) Commercial planned unit development property uses may be designed to contain mixtures of commercial-neighborhood and light commercial uses. The proposed structures may be arranged individually, in groups, or in clusters, without regard to lot areas or immediate density, providing an appropriate amount of land is set aside under a common ownership of all the property owners for permanent recreation and open space uses.
- (B) The purpose of the commercial planned unit development is to provide for a commercial development complex wherein variation in the building and/or lot size, occupancy or use types and open space about them is warranted due to topographical or other considerations.
- (C) The owners and/or authorized agents of a site shall submit to the Director of Planning, architectural and site drawings to fully illustrate the complete development of that site as a planned unit development.
- (D) The Planning Department shall then present its written staff report and recommendations to the Planning and Zoning Commission for its review and approval.
- (E) The recommendation of the Planning and Zoning Commission shall include the reasons for approval or disapproval of the PUD Plan, and if recommended for approval specific evidence and facts showing that the plan meets with the following:
 - (1) That the buildings shall be used only for the stated purposes, and customary accessory uses such as off-street parking, and community or public facilities.

- (2) That the average lot area per building type, exclusive of the area occupied by streets, shall be not less than that required by the zoning district regulations otherwise applicable to the site.
 - (3) That the proposed planned unit development will not adversely affect adjacent property or permitted use thereof.
- (F) The recommendations of the Planning Commission may include reasonable conditions as deemed necessary to promote the purpose of these regulations including but not limited to the following:
- (1) That the buildings shall be used only for commercial, retail or office uses, customary accessory uses such as off-street parking and public community facilities.
 - (2) That the average lot area per dwelling unit, exclusive of the area occupied by streets, shall not be less than that required by the zoning district regulation otherwise applicable to the use and site.
 - (3) That the proposed residential planned unit development will not adversely affect adjacent property or the permitted use thereof.
- (G) The recommendation of the Commission may include reasonable conditions as deemed necessary to promote the purpose of these regulations including but not limited to the following:
- (1) Yards and open space;
 - (2) Fences and yards;
 - (3) Regulations of points of vehicular ingress and egress;
 - (4) Regulation of Signs;
 - (5) Landscape and maintenance thereof;
 - (6) Maintenance of grounds;
- (H) Time limit within which the proposed commercial planned unit development shall be developed.
- (1) Building permits that are in accordance with the approved drawings may be issued even though the use of land and the location of the buildings to be erected do not conform to the zoning district regulations otherwise applicable to the site.

- (2) The establishment of the commercial planned unit development may be accomplished in any rural or residential zoning district upon approval by the Planning and Zoning Commission.
- (3) Amendments shall be processed in the same manner as the initial plan to develop a site as a commercial planned unit development.

2103C. Recreational Type of Planned Unit Developments.

- (A) Recreational planned unit development property uses may be designed to contain mixtures of recreational, residential and commercial uses. The proposed structures may be arranged individually, in groups, or in clusters, without regard to lot areas or immediate density, providing an appropriate amount of land is set aside under a common ownership of all the property owners for permanent recreation and open space uses.
- (B) The purpose of the recreational planned unit development is to provide for a recreational type development complex wherein variation in the building and/or lot size, occupancy or use types and open space about them is warranted due to topographical or other considerations.
- (C) The owners and/or authorized agents of a site shall submit to the Director of Planning, architectural and site drawings to fully illustrate the complete development of that site as a planned unit development.
- (D) The Planning Department shall then present its written staff report and recommendations to the Planning and Zoning Commission for its review and approval.
- (E) The recommendation of the Planning and Zoning Commission shall include the reasons for approval or disapproval of the PUD Plan, and if recommended for approval specific evidence and facts showing that the plan meets with the following:
 - (1) That the buildings shall be used only for the stated purposes, and customary accessory uses such as off-street parking, and community or public facilities.
 - (2) That the average building and/or lot area per building type, exclusive of the area occupied by streets, shall be not less than that required by the zoning district regulations otherwise applicable to the site.
 - (3) That the proposed planned unit development will not adversely affect adjacent property or permitted use thereof.

- (F) The recommendations of the Planning Commission may include reasonable conditions as deemed necessary to promote the purpose of these regulations including but not limited to the following:
- (1) That the buildings shall be used only for stated purposes, and customary accessory uses such as off-street parking and community facilities.
 - (2) That the average building and/or lot area per unit, exclusive of the area occupied by streets, shall not be less than that required by the zoning district regulation otherwise applicable to the use and site.
 - (3) That the proposed recreational planned unit development will not adversely affect adjacent property or the permitted use thereof.
- (G) The recommendation of the Commission may include reasonable conditions as deemed necessary to promote the purpose of these regulations including but not limited to the following:
- (1) Yards and open space;
 - (2) Fences and yards;
 - (3) Regulations of points of vehicular ingress and egress;
 - (4) Regulation of Signs;
 - (5) Landscape and maintenance thereof;
 - (6) Maintenance of grounds;
 - (7) Time limit and/or construction phases within which the proposed residential planned unit development shall be developed.
- (H) Building permits that are in accordance with the approved drawings may be issued even though the use of land and the location of the buildings to be erected do not conform to the zoning district regulations otherwise applicable to the site.
- (I) The establishment of the recreational planned unit development may be accomplished in any rural or residential zoning district upon approval by the Planning and Zoning Commission.
- (J) Amendments shall be processed in the same manner as the initial plan to develop a site as a commercial planned unit development.

2104. Special Provisions.

- (A) All uses shall be subject to the general provisions as prescribed in Article 9 except as herein modified, including but not limited to the following:
- (1) Building heights shall not exceed thirty-five (35) feet in height, unless otherwise approved by the Commission in conjunction with development plans.
 - (2) The minimum distance between one story and two-story buildings shall be twenty (20) feet. For each additional story, the distance shall be increased ten (10) feet.
 - (3) No part of any building shall be closer than ten (10) feet from the property line. Where off-street parking is provided, a minimum distance of five (5) feet from said parking area to a building shall be provided.
 - (4) No individual sewage system shall be permitted within a PUD. The community PUD sewage disposal system(s) shall be approved by the County Health Department and/or the Department of Environmental Quality (ADEQ).
 - (5) No individual water system shall be permitted within a PUD. The community water system shall be approved by the County Health Department and/or the Department of Environmental Quality (ADEQ). This system shall be of such adequacy to support fire hydrants of type and number as required and recommended by the latest edition of the Uniform Fire Code and the Arizona State Fire Marshall.
 - (6) All recreational areas shall be of a size, based upon the particular use, adequate to meet the needs of the anticipated population, and shall be arranged so as to be readily assessable to the residences, occupants and visitors of the development.
 - (7) Adequate and permanent access of each residence, occupancy, building, use, etc., shall be provided for pedestrians and emergency vehicles.
 - (8) Any area shown on the final plat as a public or private street or parking lots shall be constructed of AC paving surface to standards as specified in the County Engineering Road Design Standards shall be fully completed prior to occupancy and/or sale of any portion of the PUD.

- (9) Driveways of AC paving surface shall be constructed in the common ownership areas of the development to serve one or more related units or building uses.
- (10) It is required that all parking areas be provided close to each dwelling or use, and access be provided by walkways and driveways.
- (11) As a part of the review process, the overall road and driveway layout will be checked to ascertain that all provisions have been made for the public health and safety including emergency vehicle and fire department access.
- (12) Mandate a PUD “Association” for the upkeep and maintenance of common areas.

2105. Review Criteria.

The following review criteria shall be used by the Apache County Planning & Zoning Commission and the Board of Supervisors, 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: 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, solid screening shall be provided to assure year-round privacy to the residential use.
- (2) Outdoor storage areas must be solid screened. Permanent outdoor display of commercial goods or materials shall not be allowed except in areas solid screened and enclosed.

- (C) Storm Water and Drainage:
- (1) Evaluating The Effects of Development:
- (A) The drainage report shall include sufficient pre- and post-development topographic information to demonstrate the effect of development. In addition to showing the developer's property, these maps shall also show enough of the property which is adjacent to the developer's property to give a clear picture of what exists on the adjacent property that will affect drainage and will be affected by drainage on the property being developed. Information about adjacent property, such as significant differences in elevation, walls, drainage structures, buildings with their floor elevations, etc shall be provided. The report shall address how the 100-year flood plain affects the developers property and how the proposed development will affect and be protected from the 100-year flood plain.
- (B) The amount and type of runoff flows that would exit the developer's property prior to its development and after its development must be calculated and depicted for the 100-year storm event to demonstrate the effects of development. Retention or detention shall be provided to limit peak flows to pre-development peaks or offsite improvements shall be accomplished for the 100-year storm which provide capability of conveying the increased peaks to an adequate outlet. If, as the result of development, drainage flows will be reduced by facilities such as retention or detention basins, the effect of these facilities on flows exiting the property shall be described and depicted on an appropriate map or on calculation sheets.
- (2) Storm Water Detention Basins
- (A) Storm water detention systems must provide peak rates of outlet flow from the developed property onto downstream property which are no greater than the peak rates of runoff flow from the same property under natural conditions with no development. Offsite drainage improvements may be required as an alternative to convey the 100-year flow to an adequate outlet.
- (B) No detention basin shall retain water longer than 36 hours if the basin has not been designed and constructed to be a permanent body of water with appropriate health, safety, and water quality measures for such a body of water.
- (3) Storm Water Retention Basins

- (A) A retention basin is needed where a detention system would not be appropriate.
 - (B) Water stored in a retention basin must be disposed of by infiltration into soil, injection wells (also called dry wells) or pumping systems. An engineer who has selected one or more of these methods must demonstrate with the appropriate technical data that his design will insure that water will not be ponded in the basin longer than 36 hours.
- (4) Detention and Retention Basin Locations
- (A) Parking lots shall not be used for detention or retention.
 - (B) No part of a retention or detention basin shall be constructed in a public right-of-way or public utility easement.
- (5) Storm Design Frequencies
- (A) Detention and retention basins – peak post-development at or below pre-development for 100-year storm events.
 - (B) All Improvements – 100 year
 - (C) Culverts – minimum 10 year (Capable of carrying enough water of peak flow or runoff of a 25-year frequency storm so that the portion of the flow over the road does not exceed six inches deep.
- (6) 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.
- (7) Those sites affected by the 100 Year Flood Plain shall incorporate site and building design in compliance with the adopted Flood Damage Prevention Ordinance.
- (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, pedestrian pathways and/or horse trails shall be incorporated into the design of vehicular and pedestrian traffic ways in all residential, rural and recreational uses and in commercial and industrial uses, and connect, where possible, to off-site bikeways, horse and pedestrian trails.
 - (4) Adequate off-street parking and loading areas shall be provided per Article 9 of this Zoning Ordinance for their respective uses.
- (E) Open Space and Common Area:
- (1) Applicants shall 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 and/or landscaped and maintained according to an approved landscape plan.
 - (2) Open space shall 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 County Comprehensive Plan and Zoning Map.
 - (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.
 - (5) Common use recreational facilities such as community center, craft centers, playgrounds, swimming pools, etc 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 shall take into account the character of the area in which the development is proposed and assure that all structures, signs and other improvements are compatible to both the site and surrounding neighborhood.

2105. 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 the Planning and Zoning, Engineering, Health and Building Departments for a pre-development conference. The purpose of the conference is to discuss: application procedures, the proposed PUD, County policies, regulations and standards, mitigating actions, and to identify all 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 shall contact the community surrounding the development to: discuss the proposal; identify the concerns, values and anticipations of the community; 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 community should at a minimum include that area within the boundary for notification as required for the Preliminary Development Plan. While these meetings are 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 Commission a Preliminary Development Plan application for approval. 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 County. The application must include construction phases, site plans and time schedules.
- (2) Application Review and Action by the Commission.
- (a) The Planning Department, upon receipt of a complete application for the establishment of a Planned Unit Development Zone, shall review the Preliminary Development Plan, and shall proceed with the publishing of a public notice for a public hearing before the Planning Commission. This public notice shall be published at least 15-days prior to the public hearing in a newspaper of general circulation in the County, as approved by County annual award for publication and by posting the area of the PUD (one notice each ¼ mile of frontage along the public

rights-of-way). Notice shall be sent to all real property owners within 600 feet of the proposed development by first class mail to the addresses as recorded in the Assessor's Office. This letter must include 1) an explanation of the Planned Unit Development, 2) a general description of the area of the proposed change, 3) how real property owners may file approvals or protests of the rezoning and 4) notice that if 20 % of the real property owners within 300 feet of the proposed development protest a $\frac{3}{4}$ vote is required for passage.

- (b) The Commission shall act upon the application for the establishment of the Planned Unit Development Zone.
- (c) If 20 (twenty) percent of the real property owners within 300 feet of the proposed development file a written protest, a $\frac{3}{4}$ (three-quarters) vote is required for passage.
- (c) In case of the approval of the application by the Commission, a request for zone change shall be passed establishing the Planned Unit Development Zone. Such zone change shall specifically include the following:
 - (1) Wording which incorporates into the zone change by references all drawings and documents submitted as a part of the application, or as revised by the applicant, or as may be revised by the Commission, in accordance with the requirements set forth by the Commission.
 - (2) A description of the boundaries of the Planned Unit Development Zone.
 - (3) Any restrictions, conditions and use limitations established by the Commission.
- (d) Immediately following the establishment of the Planned Unit Development Zone, the Director shall notify the applicant by letter of such action and shall advise the applicant when this will be presented to the Board of Supervisors for review and final approval.
- (e) An approved Preliminary Development Plan for a Planned Unit Development established by the Commission that changes 15% or less shall be reviewed and approved by the Planning Department. A change larger than 15% shall not

occur except by approval in accordance with the provisions contained herein for the original action on the Preliminary Development Plan.

- (3) Action by the Board of Supervisors:
 - (a) The Preliminary Development Plan and the zone change establishing such shall be presented to the Board of Supervisor's within thirty (30) days of the approval of the Commission.
 - (b) If there is no objection, request for public hearing, or other protest the Board if Supervisors may accept, conditionally accept or deny the recommendations of the Commission.
 - (c) If there is an objection, request for public hearing or protest filed with the Clerk of the Board within seven (7) days of the Commission approval, the Clerk will set the item for a public hearing with the Board of Supervisors. The public hearing will follow these conditions:
 - (1) The pubic hearing will be noticed in one given publication in the newspaper of general circulation in the County, as approved by County annual award for publication.
 - (2) The property included in the proposed change shall be posted.
 - (d) Upon completion of the public hearing the Board of Supervisors may approve, conditionally approve or deny the recommendations of the Planning Commission.
 - (e) If 20 (twenty) percent of the real property owners within 300 feet of the proposed development file a written protest, a $\frac{3}{4}$ (three-quarters) vote is required for passage.
- (4) Action by the Applicant:
 - (a) Upon final approval of the application and the establishment of the Planned Unit Development District by the Board of Supervisors, and prior to submission of the Final Development Plan application, the applicant shall file a statement with the County Recorders containing all of the following:

- (1) The legal description of the Planned Unit Development Zone.
 - (2) A statement that the Planned Unit Development District has been established and that the preliminary Development Plan is on file with the Planning and Zoning Department.
 - (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, if applicable. The Final Development Plan and/or Plat shall be recorded before any development commences.
 - (2) The Commission shall review the Final Development Plan for conformity to any and all parts of the approved Preliminary Development Plan. The Final Plan shall be deemed to be in substantial compliance with the Preliminary Plan if the Final Plan does not include substantial modifications of more than 15%.
 - (3) The Planning Commission will hold a public hearing in the process of evaluating a Final Development Plan which meets the standards for substantial compliance. The public hearing shall be noticed following the same procedures listed in Section 2105.B.2.a of this article. The Planning Commission may require the applicant to show good cause for any modifications contained in the Final Plan and if, in the opinion of the Commission, the modifications are not in the public interest the Commission 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 Zone that established the Planned Unit Development District shall be acted upon by the Planning Commission 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 Commission to not be in the public interest shall not be approved and the Commission shall discuss recommended revisions with the applicant. If the applicant does not agree to the revisions suggested by the Commission, or otherwise declines to revise the plan as submitted, the Commission 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 sixty (60) days of the decision to deny the Final Development Plan.
- (6) Following the denial of a Final Development Plan by the Commission, the applicant may choose to revise the plan in accordance with the recommendations of the Commission and resubmit it for approval, or may within thirty (30) days of receipt of notice of denial, choose to appeal the decision of the Commission to the Board. In the case of such appeal, the Board 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 Board shall notify the applicant in writing stating the reasons for denial.
- (7) Following approval of a Final Development Plan by the Commission, the Commission shall send a report to the Board of Supervisors stating any changes or new conditions for approval. The Board of Supervisors may approve, conditionally approve or deny the Final Development Plan at a scheduled meeting.
- (8) Upon approval by the Board of Supervisors either from recommendation from the Commission or upon appeal by the Applicant, 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 Planning & Zoning Department.
- (9) 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 Zone. In all cases, a Final Plat and all applicable Owners Association Documents, after final approval by the Board of Supervisors, must be filed at the Records 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 property and/or unit lines or common area boundaries, the applicant shall submit final as-built replats, by phase, to be considered and approved in accordance with this Article.

- (10) 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.

2106. Application and Submittal Requirements.

Any person having ownership interest in property, an exclusive possessory interest, or a contractual interest in property that may become an ownership, or exclusive possessory interest, may apply for a PUD. Prior to the final approval of the PUD, the entire tract covered by the PUD or proposed project shall be under a single legal entity, evidenced by legal title or binding sales contract or under lease or such other legal control over the land and proposed use which is sufficient to insure that the applicant will be able to carry out the proposed project and assume all liability for the project which would normally be assumed under full land ownership.

(A) Pre-Application:

- (1) Twelve (12) copies of a drawing shall be provided using information such as USGS maps, aerials or other sources and shall be a C.A.D. drawing that is drawn to scale, 1"=100' , or larger is preferred;
- (2) The drawing 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, indicating flood zones;
 - (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 within 600 feet of the proposed area;

- (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 or proposed 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, libraries, 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 or proposals for installation or creation of such districts;
 - (j) The layout of proposed residential units, commercial and/or industrial areas;
 - (k) Other information necessary to adequately discuss the proposed Planned Unit Development; and
 - (l) All calculation of open areas by type and use, etc.
- (B) Preliminary Development Plan;
- (1) All fees and a complete application on the forms provided by the County shall be submitted consisting of twelve (12) copies of all drawings and twelve (12) copies of all written documents and one digital copy of all drawings and written documents;
 - (2) The Preliminary Development Plan shall be of .dwg or .dxf format drawn to a scale no less than 1"=100' on 24 x 36 inch paper sheets using an engineer scale;
 - (3) One 8 ½ x 11 inch or 11 x 17 inch reproducible mylar reduction of each plan sheet shall be submitted;
 - (4) The following information shall be shown on site plan drawing:
 - (a) The proposed name of the development. This name shall not duplicate or resemble the name of any existing development or subdivision within the County. Names of

new developments shall not be as 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 Departments;

- (b) The true north point, scale of drawing including a graphic scale, the date and the Engineer or Architect and Firm responsible;
- (c) A vicinity map outlining the location of the development in relation to major streets and other thoroughfares within 600 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 and address of the owner(s) of adjacent property;
- (e) The name and address of the owner(s), the applicant/developer (if different), and the licensed architect or engineer who prepared the plan;
- (f) The location, widths and names of all existing public or private streets and thoroughfares within or adjacent to the tract, together with easements, rights-of-way and other important features such as section lines and corners, county boundary lines and monuments;
- (g) Contour lines or spot elevations based on USGS data (with date of survey) having the following intervals:
 - (1) Twenty (20) foot contour intervals; or
 - (2) Spot elevations where the ground is too flat for contours;
 - (3) One (1) 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 County Engineering Department;

- (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, when applicable. 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 flow direction;
- (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 or walking, horse, ATV, bike, etc., trails, and how they connect;

- (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 all certificates;
- (z) The following information must also be included:
 - (1) A Registered Professional Engineer and/or Land Surveyor’s “Certificate of Survey”.
 - (2) Owner’s Dedication, if applicable.
 - (3) Planning and Zoning Commission’s Approval.
 - (4) The Board of Supervisors’ Approval.

- (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, etc., that are proposed shall be included;
 - (b) A hydrology study showing 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 the pedestrian circulation on and adjacent to the site. Any proposed bikeways or hiking trails 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 (wading, swimming, fishing), tennis courts, golf courses 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 or drawings:
- (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.
 - (c) A utility plan showing the location and extent of existing or proposed provisions for sewage disposal, effluent use, storm water drainage, solid waste disposal, fire protection lines, fire hydrants and public utilities.

- (7) Preliminary Development Plan documents shall be prepared by a licensed Professional Engineer or Architect 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 the legal owners or general partners involved in the proposed project including their address and the nature of their interest;
 - (c) Why, in the applicant's opinion, the proposed zone would be in the public interest and would be consistent with the stated purpose and objectives, and the Review Criteria for Planned Unit Development Zone;
 - (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 County, 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 shall 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, trails and minimum parking and loading facilities coincident with the completion of structures requiring such facilities;

- (2) Completion of sewage disposal, effluent use, storm water drainage, solid waste disposal and public utility facilities, lines and systems.
 - (3) Completion of the landscaping and planting of common use and private areas coincident with the completion of structures adjacent to those areas; and
 - (4) 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 and/or Zone Map. 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 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, horse, ATV or bike trails 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 County Engineering Department;
 - (k) A statement concerning proposed open space, common area, or active and passive recreational areas;
 - (l) A statement concerning any proposed commercial, industrial or recreational business, the hours of operation, proposed numbers of employees, and anticipated customer traffic;
 - (m) A drainage plan and report 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 which 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 or any meetings 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 Commission, or Board of Supervisors 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 Planning and Zoning Department prior to the Planning Commission meeting. The applicant shall submit twelve (12) copies of all drawings and twelve (12) copies of all written documents constituting the Final Development Plan which shall include:

- (1) Submit a separate Final Plat in conformance with this Article with a title block clearly indicating the development is a PUD and including the certificate referencing the application number of the zone change establishing the PUD, if applicable.
- (2) The Final Development Plan shall be drawn to a scale of no less than 1"=100' on 24h x 36w inch format. Once final corrections have been made, two (2) copies of the Final Plan sheets and Final Plat, if applicable, shall be submitted on mylar. A digital copy of all .dwg or .dxf drawings and documents will be submitted.
- (3) One (1) 8 ½ x 11 inch or 11 x 17 inch reproducible mylar 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 all revised notes and land use data tables.
- (5) 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. All site lighting plans will follow the light standards as contained in Article 7 of the Zoning Ordinance.
- (6) 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.
- (7) 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.
- (8) Any other information the Planning Director, Commission or Board may require in order to give complete and full consideration to the Final Development Plan.
- (9) 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 the 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 County, 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 or owner's association 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 or owner's association 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 County 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 zone. In the event of failure of that agency to fulfill its duties, the County 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 County 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.

2107. 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 Commission and Board of Supervisors 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 Zone or the owner(s) may make application for rezoning to some other zoning district classification and the Planning Commission 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 Commission 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 eighteen (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 Commission, the Planning Director shall revoke its approval of the Preliminary Development Plan or Final Plan and shall so notify the

owner(s) of record and the Board of Supervisors in writing. If, within thirty (30) days of receipt of the notice of such revocation, 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.

2108. 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 2105 of this article. Application for such amendments shall follow the same procedure described in Section 2105 of this article, except that the necessary supporting documentation and drawings to be submitted shall be established during the pre-application meeting by the Zoning Director. Additional information may also be requested by the Planning Commission or Board of Supervisors.
- (B) Matters to be considered for an amendment. In addition to the matters to be considered for a Preliminary Development Plan, the Planning Commission and Board of Supervisors 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/decrease in the net residential density of more than fifteen percent (15%);
 - (3) An increase/decrease in floor area of a residential unit of more than fifteen percent (15%);

- (4) An increase/decrease in lot coverage of a residential unit of more than fifteen percent (15%);
 - (5) An increase/decrease in floor area of a nonresidential use by more than fifteen percent (15%);
 - (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.
- (D) Minor modifications less than 15%:
- (1) Minor modifications to an approved Final Development Plan which have an insignificant affect on the character or impact of the development may be administratively approved by the Director, 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 Director 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 Director, the decision may be appealed to the Planning Commission and Board of Supervisors for a final decision.

2109. Enforcement.

(A) Violations

Any offer to sell, contract to sell, sale, or deed of conveyance of a land division or any part thereof, before a final plat in full compliance with the provisions of this Article has been duly recorded in the office of the County Recorder shall be a misdemeanor.

(B) Penalties

Any person, firm, partnership or corporation convicted of a misdemeanor pursuant to a violation of this Article shall be punishable by a fine not more than seven hundred and fifty dollars (\$750.00) or by imprisonment in the County Jail for a period not more than six (6) months, or by such fine and imprisonment. The imposition of any sentence or fine shall not exempt the offender from compliance with the requirements of these regulations.

(C) Withholding of Building Permits

Any parcel of land which has been the result of a Planned Unit Development Zone that does not comply with this Article shall not be a legal building site. Hence, no Building Permits shall be issued until said zone is caused to comply with this Article.

(E) Daily Separate Violations

Each day that a violation of these regulations continues to exist shall constitute a separate offense.

(F) Enforcement Authorities

The Board of Supervisors, County Attorney, County Sheriff, Planning and Zoning Director, County Engineer, Health Department, Building Inspector, County Clerk, County Recorder and all officials charged with the issuance of licenses or permits shall enforce the provisions of this Article. Any permit, certificate or license issued in conflict with the provisions of this Article shall be void.

2110. Fees

(A) Preliminary Map Application Fees:

The fees for a preliminary map shall be \$500.00 plus \$15.00 per acre.

(B) Final Map Application Fees:

The fees for a final map shall be \$300.00 plus \$10.00 per acre.