

(e) *Final site plan requirements.* Final site plan approval meeting the requirements of division 3, article II of chapter 4 is required. (Ord. No. 01-99, § 1(301.3), 11-3-1999; Ord. No. 05-10, § 2, 6-16-2010; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

### Sec. 3-108. PUD Planned Unit Development.

#### (a) *Purpose and intent.*

- (1) The purpose and intent of the PUD Planned Unit Development classification is to provide for integrated developments, which are consistent with the Comprehensive Plan, so as to promote a mixture of land use types and economical and orderly development consisting of a single or of a mixture of compatible land uses. Further, it is intended that a proposed development be sensitive to existing adjacent and future land uses as depicted by the Future Land Use Map of the Comprehensive Plan, the natural environment and the impact upon supporting public infrastructure through such mechanisms as, but not limited to, the establishment of appropriate buffer areas between land uses, limitations upon the types of permissible uses and structures which are to be permitted in the development.
- (2) The PUD Planned Unit Development classification has been divided into four sub-classifications. These sub-classifications are Residential, Business, Industrial and Mixed Use.
- (3) The procedure for review and approval of a planned development shall be as set forth in this section. Subsequent to approval, major modifications shall be reviewed as for a new development plan and/or development agreement.

(b) *Regulations.* The following regulations apply to all Planned Unit Developments (PUD) unless the specific type (i.e., RPUD, MPUD, BPUD, or IPUD) is otherwise referenced.

- (1) *Unified ownership.* All land within the PUD shall be under the ownership of one person, either by deed, agreement for deed

or contract for purchase or lease. PUD applicants shall present either an opinion of title by an attorney licensed in the state or a certification by an abstractor or a title company, authorized to do business in the state, that, at the time of initial application, unified ownership of the entire area within the proposed PUD is in the applicant, or contract seller. Unified ownership shall thereafter be maintained until after the recording of the master development plan or final plat.

- (2) *Commercial uses in an MPUD.* Commercial areas should normally be located in an area accessible only from streets within the MPUD. When commercial uses or structures are approved as part of an MPUD, the commercial operation shall not begin until certificates of occupancy have been issued for all dwelling units in the total project, unless otherwise provided in the development agreement.
- (3) *Utility distribution lines.* All utility distribution lines within the PUD shall be located underground; however, those appurtenances requiring aboveground installations may be exempted by the City Council.
- (4) *Open space requirements.* Twenty percent of an RPUD project or the residential portion of an MPUD containing residential uses shall be common open space. Common open space shall meet the following standards:
  - a. It shall be dedicated by plat, deed or other suitable instrument to and usable by all residents of the RPUD/MPUD. Useable space may be in the form of active or passive recreational areas with residents having physical access to the space. Passive facilities such as picnic tables and nature trails shall be placed in a manner that functions with the site's natural amenities or recreational needs of future residents. Examples of active recreational useable space are play-

grounds, free play areas, golf courses, nature trails, swimming pools, and tennis courts.

- b. To further the City's efforts of tree protection, 15 percent of the site shall be preserved in a natural state (passive recreational uses may be permitted).
  - c. Common open or public space should have the following qualities: accessibility, visibility, security, and interconnection (either physical or visual).
  - d. Its location, shape, size and character shall be illustrated on the master development plan.
  - e. Provisions for maintenance of the common open space may be provided in the development agreement.
- (5) *Procedure for rezoning to PUD.*
- a. *Preapplication stage.* A preapplication meeting is required before a PUD rezoning application can be accepted. After the preapplication meeting, a sketch plan may be submitted for review and comment prior to filing the application for rezoning.
    1. *Preapplication meeting.* The preapplication meeting is intended to provide an opportunity for an informational exchange between the applicant and the administrative staff. No fee shall be charged. The applicant need not submit any plans or other information; however, the more information, such as sketch plans, proposed land uses, site information, adjacent land uses, and proposed density, that the applicant does submit, the more complete the responsive comment can be. As a minimum, the applicant will be advised of the usual procedures and requirements. Forms, application materials, guidelines, checklists, and copies of the

Comprehensive Plan, and of the zoning and subdivision regulations, will be made available at a reasonable cost.

2. *Sketch plan.* After the preapplication meeting, a sketch plan may be submitted to the City Planner. If submitted, written comments on the sketch plan shall be made by the City Planner and any interested departments within 30 days, including TRS. The City Planner shall coordinate this review. If submitted, a sketch plan shall indicate general land use categories and the approximate height, location, architectural character and density of dwellings, and other structures. The sketch plan shall also show the tentative major street layout, approximate street widths, sites of schools, open space areas and parks, existing structures, waterways, wooded areas, wetlands, floodplain areas (if applicable), total acreage and existing zoning. Finally, it shall include a vicinity map, and any other information deemed appropriate by the applicant. Written comments on the sketch plan are informational only and are subject to change after a more detailed review of the rezoning application.
- b. *RPUD application stage.* An application for rezoning to RPUD, together with a master development plan (MDP) and such application fees as are set at the preapplication meeting, shall be submitted to the City Manager or his/her designee. If a rezoning applicant desires concurrent review under chapter 4 of this Code, he shall so state at the time of application, and shall submit any additional information required by

those regulations. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:

1. *Preliminary plan exhibits.* The preliminary plan shall consist of the following:
  - i. Name of project and name, address, telephone number of the developer and the professional project engineers, architects and planners.
  - ii. The date the plan was drawn, its scale, and a north arrow.
  - iii. Names and location of adjoining streets and names of abutting property owners.
  - iv. Legal description of property, boundary survey and the location of all existing streets, buildings, railroads, bulkhead lines, easements, and other important features in or adjoining the property.
  - v. The general topography and physical conditions of the site, including natural areas of vegetation and type, general soil types, wetland areas, 100-year floodplain areas, watercourses, water bodies, and natural drainage patterns.
  - vi. Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.
  - vii. General feasibility plans for potable water, sewage disposal, and stormwater drainage.
  - viii. Approximate location and area encompassed for each proposed land use within the development.
  - ix. Approximate location and size of common open space.
  - x. Such additional material, maps, studies, or reports subsequently deemed necessary by any reviewing department or agency.
2. *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the LDM at the preapplication meeting. The development agreement, along with the preliminary plan, shall govern the development of the PUD and shall regulate the future use of the land. The development agreement shall include any statements or information requested by any reviewing department or agency at the preapplication meeting, such as:
  - i. Evidence of unified ownership and control.
  - ii. Statement agreeing to:
    - A. Proceed with the proposed development according to all regulations;
    - B. Provide appropriate performance and maintenance guarantees;
    - C. Follow all other provisions of this Code to the extent not expressly inconsistent with the written de-

- velopment agreement, and bind the applicant's successors in title to his commitments.
- iii. The acreage and percentage of the total land area devoted to each of the proposed land uses.
  - iv. Maximum density for each type of dwelling.
  - v. Maximum building heights.
  - vi. Minimum building spacing and floor areas.
  - vii. Lot sizes, yard areas and buffer areas, including perimeter buffers.
  - viii. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
  - ix. When the PUD is planned for phase development, a schedule of the phases.
  - x. The proposed language of any covenants, easements or other restrictions.
  - xi. Maximum number of dwelling units by type.
  - xii. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.
  - xiii. Conditions that all provisions of the development agreement shall expire 720 days following execution of the development agreement by the City, if a subsequent development order has not been secured in writing by the applicant. Upon expiration of the agreement the zoning designation will revert to its previous designation and the PUD entitlements become null and void.
- c. *BPUD, IPUD or MPUD application stage.* An application for rezoning to BPUD, IPUD or MPUD, together with a master development plan (MDP) and such application fees as are set at the preapplication meeting, shall be submitted to the City Manager or his/her designee. If an applicant for rezoning desires concurrent review under chapter 4 of this Code, he shall so state at the time of application and shall submit any additional information required by those regulations. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:
1. *Preliminary plan exhibits.* The preliminary plan shall be drawn to an appropriate engineer's scale to include the location and boundary of the site referenced by the legal description and boundary survey; the date the plan was drawn, its scale, and a north arrow; and the name, address and telephone number of the developer and his professional project engineers, architects and planners. In addition, the preliminary plan shall include all of the following, if applicable. The PUD establishes the zoning/permitted use of property; items i, vi, viii, x below if not known or applicable at the time of the zoning request will be provided on the overall development plan or final site plan as appropriate.
    - i. The approximate size and location of all proposed buildings and other structures, if known, and the

- specified use of buildings and structures may be indicated, if known.
- ii. Generalized off-street parking area and loading plans, including circulation plans for vehicular movement.
  - iii. Driveway and access controls, including number and approximate location of driveways.
  - iv. Approximate location, size and description of open spaces, landscaped areas, or buffers.
  - v. Approximate location and size of all easements, rights-of-way, or drainage facilities and structures.
  - vi. Approximate boundary lines and dimensions of parcels proposed to be subdivided, if applicable.
  - vii. The general topography and physical conditions of the site, including features such as water bodies, wooded areas, wetland areas, vegetation types, soils, 100-year floodplain areas, and steep grades or depressions on the site.
  - viii. General location of signs, if known.
  - ix. Any other conditions of development, specifications, limitations, constraints, standards or proposed physical features not specifically included in subsections i. through x. of this subsection (b)(5)c.1.
  - x. Approximate location of dumpsters, solid waste receptacle enclosures, etc., if known.
2. *Written development agreement.*  
In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the City Manager at the preapplication meeting. The development agreement, along with the preliminary plan, shall govern the development of the BPUD, MPUD or IPUD and shall regulate the future use of the land. The development agreement shall include the following information:
    - i. Evidence of unified ownership and/or control.
    - ii. Statement agreeing to:
      - A. Proceed with the proposed development according to all regulations;
      - B. Provide appropriate performance and maintenance guarantees;
      - C. Following all other provisions of this Code to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his commitments.
    - iii. A listing of the land uses agreed upon in each component of the BPUD, MPUD or IPUD.
    - iv. Maximum building heights.
    - v. Minimum building spacing and floor areas.
    - vi. Lot sizes, if known, yard areas, and buffer areas, including perimeter buffers.

- vii. Statement regarding ingress/egress controls to the site.
  - viii. Statement regarding any road improvements to be made and the thresholds for the traffic impact analysis.
  - ix. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
  - x. When the BPUD, MPUD or IPUD is planned for phase development, a schedule of the phases.
  - xi. The proposed language of any covenants, easements or other restrictions.
  - xii. Maximum amount of square footage by use.
  - xiii. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.
  - xiv. Condition that all provisions of the development agreement shall expire 720 days following execution of the development agreement by the City, if a subsequent development order has not been secured in writing by the applicant. Upon expiration of the agreement the zoning designation will revert to its previous designation and the PUD entitlements become null and void.
- (6) *Post-approval stage.*
- a. *Recording MDP.* After City Council approval of the rezoning application to PUD, the preliminary plan, and the written development agreement, both signed by the Mayor, and attested by the City Manager, shall be recorded in the public records of the county at the expense of the applicant.
  - b. *Final site plan approval.* After the MDP is recorded, a final site plan shall be prepared and submitted in the manner required by this Code. If the PUD includes a subdivision required to comply with this Code, preliminary and final plats of the subdivision portion may be submitted in lieu of the final site plan, for review and approval as governed under this Code.
  - c. *Construction.* During construction, the City Manager shall enforce compliance with the approved final site plan or the final plat.
- (7) *Residential Planned Unit Developments (RPUDs), Business Planned Unit Developments (BPUDs), and Industrial Planned Unit Developments (IPUDs).* Residential Planned Unit Developments (RPUDs), Business Planned Unit Developments (BPUDs), and Industrial Planned Unit Developments (IPUDs) which were in existence prior to October 27, 1990, shall continue in the manner approved by the county council. To the extent of any specific amendment to these aforesaid PUDs, said amendment must comply with the requirements of this chapter. Terms previously used in said PUDs may continue to be employed.
- (c) *Permitted principal uses and structures.* The permitted principal uses and structures shall be those agreed upon by the City Council and are dependent upon which sub-classification is requested.
  - (1) A Residential Planned Unit Development shall be indicated by an R. The permitted uses within a RPUD may be those found in any of the residential zoning classifications of this chapter, provided that said uses are listed in the development agreement and have been approved by the City Council.

- (2) A Business Planned Unit Development shall be indicated by a B. The permitted uses within a BPUD may be those found in any of the business zoning classifications of this chapter, provided that said uses are listed in the development agreement and have been approved by the City Council.
- (3) An Industrial Planned Unit Development shall be indicated by an I. The permitted uses within an IPUD may be those found in the industrial zoning classifications of this chapter, provided that said uses are listed in the development agreement and have been approved by the City Council.
- (4) A Mixed Use Planned Unit Development shall be indicated by an M. The permitted uses within an MPUD must consist of a combination of uses allowed from at least two of the above three PUD subclassifications as approved by the City Council.
- (5) Other uses and structures of a similar nature to those listed, after determination by the City Council at the time of master development plan approval that such uses and structures are compatible with the PUD development and the surrounding area.
- (6) The procedure for review and approval of a planned development shall be as set forth in this section and sections 3-109—3-132. Subsequent to approval, major modifications shall be reviewed as for a new development plan and/or development agreement.
- (d) *Dimensional requirements.*
- (1) *Minimum parcel size:*  
*Area:*  
 Residential only: five acres.  
 Business only: one acre.  
 All others: one acre.
- (2) *Minimum lot area and yard requirements.* Minimum lot sizes, width, and yard areas shall be described in the development agreement. In determining yard sizes, the City Council shall consider whether or not the proposed PUD will have adverse effects upon adjoining properties. Factors which may be considered in determining yard sizes include, but are not limited to, existing and future land uses, lot size, and buffer requirements.
- (3) *Density.* The total number of dwelling units per acre of land shall be calculated and described in the development agreement.
- (e) *Landscape buffer requirements.* A landscape buffer area meeting the requirements of chapter 5, articles I and V shall be constructed unless otherwise negotiated and approved by City Council as part of the master development plan and written development agreement.
- (f) *Off-street parking and loading requirements.*
- (1) Off-street parking and loading areas meeting the requirements of section 3-129 shall be constructed.
- (2) The City Council may modify the off-street parking requirements for the number of the individual spaces provided that such action has been substantiated by a study prepared by a professional traffic engineer.
- (3) Any modifications to said requirements which may be granted by the City Council shall be described in the development agreement.
- (g) *Transportation impact analysis report.*
- (1) *Purpose.* The transportation impact analysis report is designed to identify the transportation impacts and problems which are likely to be generated by a proposed use because of size, density, traffic generation rates, or location. The report will also identify all improvements required to ensure safe ingress and egress from a proposed development, maintenance of adequate street capacity, and elimination of hazardous conditions and improvements necessary for immediately surrounding roadways and intersections as a result of the property development.

- (2) *Thresholds for traffic impact analysis report.* A transportation impact analysis report shall be required, unless waived by the City Traffic Engineer, for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the City Traffic Engineer, will generate in excess of 1,000 trips per day.
- (h) *Effect of approval; minor modifications.*
- (1) After approval of a Planned Unit Development and its corresponding development agreement and master development plan, the city may issue development permits which are consistent with the approved Planned Unit Development until its expiration specified in the development agreement. The City Council may grant extensions to a Planned Unit Development and its corresponding development agreement and master development plan.
- (2) Subsequent to the approval of the planned unit development, the City Council may approve minor modifications of the Planned Unit Development. Minor modifications are those for which:
- The proposed site alterations must not increase the building size more than ten percent of the gross floor area of all buildings within the development.
  - The proposed site alteration must not adversely affect traffic circulation on- or off-site.
  - The proposed site alterations must not have a significant impact upon the utility system.
  - The proposed site alterations must comply with all codes, rules, and regulations of the city, county, state and federal governments, and must not require variances.
- The proposed modification must not increase the maximum density of development.
  - The proposed modification does not change permitted uses or special exception uses.
- (3) Requests for modifications to a planned unit development which meet the standards of subsection (h)(2) may be adopted by resolution of the City Council after one public hearing and notice as provided in accordance with subsection 1-10(c). After City Council approval of a minor amendment, the adopted resolution along with its corresponding revisions to the development agreement and master development plan shall be recorded in the public records of Volusia County, Florida, at the expense of the applicant.
- (4) Requests for modifications which do not meet the standards in subsection (h)(2) shall be reviewed and processed in the manner provided for new planned unit development applications.
- (Ord. No. 01-99, §§ 1(204), 1(205), 1(301), 1(301.3), 2(813.00)), 11-3-1999; Ord. No. 05-09, § II, 5-6-2009; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)
- Secs. 3-109—3-120. Reserved.**

#### DIVISION 4. SUPPLEMENTARY REGULATIONS

##### **Sec. 3-121. Purpose; access control.**

The purpose of this division is to promote the safety of vehicular traffic and pedestrians and to minimize traffic congestion and conflict. Access to any project or development shall comply with the requirements of division 4, article II of chapter 4. (Ord. No. 01-99, § 1(301.2(800.00)), 11-3-1999)

##### **Sec. 3-122. Exceptions to minimum yard or lot coverage requirements.**

Every part of every yard shall be open and unobstructed from the ground up, except as follows:

- In the RR, RA, R-1 through R-8, MH-1, MH-5, and RPUD classifications, except