

## **Article VII Planned Unit Development**

### **Section 7.0 – Purpose**

The purpose of the Planned Unit Development is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a Planned Unit Development is within the parameters and intent of this Ordinance is completely upon the applicant. The Village of Bellaire Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this Ordinance. It is the expressed intent of this section to allow such items as setbacks, yards, parking spaces, and type of dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure. The purpose of this section ideally allows:

- A. Flexibility in the regulation of land development
- B. Encourage innovation in land use in variety and design, layout, and type of structures constructed.
- C. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities
- D. To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
- E. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the village.
- F. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed

### **Section 7.1 – Area Regulations**

Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following area regulations

- A. Perimeter Setbacks. The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying zoning district, provided:
  - 1. Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than one hundred (100) feet from any adjoining or abutting property, which is in a residential zoning district.
  - 2. With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
- B. Open Space. A PUD project shall have open space of no less than twenty-five (25%) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. Dedicated open space does not include parking lots, roads, and public rights-of-way,

but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.

- C. Height Regulations. The height of all buildings and structures within a PUD project shall not exceed the height limit of the underlying zoning district; provided, however, the Planning Commission may authorize an increase in height upon a finding that the proposed increase will not be detrimental to the public health, safety, or welfare of the PUD occupants, the area surrounding the PUD project site, and the village as a whole. This increase, however, shall not exceed fifty (50) percent of the underlying zoning district height limit. In authorizing an increase in height, the Planning Commission may require increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the project with the surrounding area. In no case shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the village pursuant to emergency fire suppression and other emergency services. For purposes of this subsection, the height of a building or structure shall be measured from the average grade of the property at the base of the building or structure to the highest point of the building or structure.
- D. Other Dimensional Regulations. To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, reduce the other dimensional regulations, as required by the underlying zoning district, including but not limited to minimum lot size, density, and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the village as a whole.

Any reductions by the Planning Commission shall be limited as follows:

1. Residential density shall not be reduced by more than thirty (30) percent of the underlying zoning district standard.
2. Setbacks shall not be reduced by more than fifty (50) percent of the underlying zoning district requirements. Perimeter setbacks as required by the PUD regulations may not be reduced.
3. Required parking shall not be reduced by more than sixty (60) percent of the parking normally required of the proposed use. In no case shall a single-family home; mobile or modular home, or other such detached single-family dwelling has less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.
4. Prior to approving a reduction in dimensional regulations, the planning commission may require the applicant to demonstrate through bonafide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the village as a whole.

## **Section 7.2 - Planned Unit Development Eligibility Requirements**

To be eligible for a planned unit development, a parcel shall meet all of the following:

- A. The parcel shall be four (4) contiguous acres or more in area. Provided, however, if the proposed PUD will contain a mixture of residential and non-residential uses, the parcel shall be ten (10) acres or more in area. For purposes of this subsection, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customarily incidental to a residential use shall not be considered non-residential uses.
- B. The parcel on which the proposed PUD will be located shall be served by public water and sanitary sewer facilities.
- C. The parcel on which the proposed PUD will be located shall be under single ownership, or all property owners shall file the PUD application jointly.
- D. Residential PUD's without any non-residential use may be allowed in the R-1, R-2, R-3 Districts.
- E. The proposed uses within the PUD shall be consistent with the Village of Bellaire Master Plan for the subject parcel.

## **Section 7.3 - Pre-application Conference**

- A. A pre-application conference shall be held with the Planning Commission or its representative, unless waived by the applicant, for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission, or its representative, with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Planning Commission's initial, but unofficial reaction to the application. In no case shall any representations made by the Planning Commission, or its representative, at the pre-application conference be construed as an endorsement or approval of the PUD.
- B. A request for a pre-application conference shall be made to the zoning administrator who shall schedule a date and time for the pre-application conference. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan, which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

## Section 7.4 - PUD Application Requirements.

An applicant seeking approval of a PUD shall submit a complete application to the zoning administrator. The zoning administrator shall then forward the application to the Planning Commission for its review under the procedures of this section. The application shall include all of the following:

- A. A completed application form, supplied by the zoning administrator.
- B. Payment of a fee as established by resolution of the Village Council.
- C. A narrative statement describing:
  - 1. The objectives of the proposed PUD and how they relate to the intent of the zoning ordinance as described in subsection (A), above.
  - 2. The relationship of the proposed PUD to the Village of Bellaire Master Plan.
  - 3. Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
  - 4. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
  - 5. Anticipated dates for the start and completion of the PUD construction.
  - 6. The location, type and size of areas to be dedicated for common open space.
- D. Twelve (12) copies of the development plan. If the PUD is to be developed in phases, the development plan shall show all phases. The development plan shall contain all of the following:
  - 1. Applicant's name, address, and telephone and fax numbers
  - 2. Name, address, and telephone and fax numbers of the individual and firm who prepared the plan.
  - 3. Name of development, scale of the plan drawing, and north arrow.
  - 4. Location, shape, area and dimension of the lot, lots or acreage to be used, including a legal description of the property and the tax identification number(s) for the property.
  - 5. Present zoning of the subject property and adjacent properties.
  - 6. All public and private rights-of-way and easement lines located on and adjacent to the subject property which are proposed to be continued, created, relocated or abandoned, including the proposed use(s) and width(s) of all rights-of-way and easements.
  - 7. Location and total number of curb cuts, driveways, off-street parking spaces and loading spaces, including the dimensions of a typical parking space and the location(s) of barrier free parking spaces.
  - 8. Proposed exterior building dimensions (horizontal and vertical), gross floor area, number of floors and proposed uses.
  - 9. Location, dimensions, and uses of all existing and proposed structures, walks, malls, open areas, walls fences, screen plantings and/or other landscaping.
  - 10. Existing and proposed sewer, water and other utility lines, plus location and type of sewage treatment facility, water source, and fire hydrants.
  - 11. Required setbacks of the zoning districts.
  - 12. Area of subject property to be covered by buildings.
  - 13. Location, size, height and orientation of all signs

14. All major environmental features, such as major stands of trees and other vegetation, wetlands, flood plains, drainage ways, outcroppings, slopes of ten (10%) or more gradient, and/or other surface features.
  15. Proposed methods of surface water drainage, including surface and subsurface facilities.
  16. Location and type of proposed lighting on the site.
  17. Percentage of the total site devoted to open space and the proposed uses of that open space.
  18. Proposed PUD's that include residential uses shall include the following additional information:
    - a. Minimum floor area of dwelling units.
    - b. Total number of dwelling units proposed
    - c. Number of bedrooms per dwelling unit.
    - d. Areas to be used for open space and recreation.
- E. Such other information regarding the development area that may be required to determine conformance with this Ordinance.

### **Section 7.5 - Public Hearing on PUD Request; Notice**

- A. Following receipt of a complete PUD application, the Planning Commission shall hold at least one (1) public hearing. Notice of the public hearing shall be given not less than five (5) or more than fifteen (15) days before the date the application for the planned unit development will be considered. The notice shall be sent via first class mail or personal delivery to all owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property being considered for planned unit development action, and to the occupants of all structures within 300 feet of the property being considered for planned unit development action. Such notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwellings units or other spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
- B. The notice shall do all of the following:
1. Describe the nature of the planned unit development application;
  2. Describe the property which is the subject of the planned unit development application;
  3. State when and where the planned unit development application will be considered; and
  4. Indicate when and where written comments will be received concerning the planned unit development application.

## **Section 7.6 - Planning Commission Review of PUD.**

Following the public hearing the Planning Commission shall review the PUD application and shall approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in subsection (H) below. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

## **Section 7.7 - Standards for PUD Approval; Conditions; Waiver of PUD Standards.**

- A. General Standards. The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:
1. The planned unit development shall be consistent with the Village of Bellaire Master Plan.
  2. The planned unit development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation if dead shall be replaced.
  3. The planned unit development shall not change the essential character of the surrounding area, unless such change is consistent with the village's current master plan.
  4. The planned unit development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff odors, light, glare or other nuisance.
  5. The planned unit development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements that will increase the capacity sufficient to service the development have already been scheduled for completion.
  6. The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
  7. The planned unit development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.
  8. The planned unit development shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.
  9. The planned unit development shall not result in any greater storm water runoff to adjacent property after development, than before. The open

- space shall be provided with ground cover suitable to control erosion, and vegetation that no longer provides erosion control shall be replaced.
10. The design of the planned unit development shall exhibit a reasonably harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
  11. The design of the planned unit development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
  12. The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control.
  13. The planned unit development shall meet the standards of other governmental agencies, where applicable.
  14. Conditions. The Planning Commission may impose conditions based on the requirements of Article 12.6
  15. Waiver of PUD Standards. The Planning Commission may waive any of the standards for a PUD contained in subsection (H)(1) above where all of the following findings are documented along with the rationale for the decision:
    - a. The spirit and intent of the PUD provisions will still be achieved.
    - b. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived
    - c. No nuisance will be created

**Section 7.8 - Planned Unit Development Permit.** Following final approval of a PUD application, a permit may be obtained from the zoning administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD permit issued under this subsection void.

**Section 7.9 - Continuing Adherence to Approved PUD Application.** Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

**Section 7.10 - Recording of Action.** The applicant shall record an affidavit acceptable to the village attorney with the Antrim County Register of Deeds that contains the full legal description of the project site, specifies the date of final village approval, specifies the description or identification number which the village has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant

shall record an amended affidavit acceptable to the village attorney that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Antrim County Register of Deeds and copies of recorded documents filed with the zoning administrator.

**Section 7.11 - Amendment of an Approved Planned Unit Development.** Amendments to an approved PUD shall be permitted only under the following circumstances:

- A. The owner of property for which a PUD has been approved shall notify the zoning administrator of any desired change to the approved PUD. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - 1. Reduction of the size of any building and/or sign
  - 2. Movement of buildings and/or signs by no more than ten (10) feet.
  - 3. Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
  - 4. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - 5. Internal re-arrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
  - 6. Changes related to items (a) through (e) above, required or requested by the Village of Bellaire, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval.
  - 7. All amendments to a PUD approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.
  - 8. An amendment to an approved PUD that cannot be processed by the zoning administrator under subsection (1) above shall be processed in the same manner as the original PUD application.
  
- B. **Expiration of Approved PUD; Extension.** - An approved PUD shall expire one (1) year following final approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:
  - 1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
  - 2. The PUD requirements and standards that are reasonably related to the development has not changed.

If the PUD approval expires pursuant to subsection (B) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the planning commission following the procedures for a new PUD application

**Section 7.12 - Performance Guarantee.** In connection with the development of a PUD project, the Planning Commission may require the applicant to furnish Village of Bellaire with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the PUD or which the applicant has agreed to construct even though located outside the PUD. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the PUD. For purposes of this subsection, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Village Clerk at or before the time the village issues the permit authorizing the PUD, or if the PUD has been approved in phases, then the performance guarantee shall be deposited with the village clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the PUD public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the PUD or each phase of the PUD in the following manner:

- 1.. One-third of the cash deposit after completion of one-third of the PUD public and site improvements;
1. Two-thirds of the cash deposit after completion of two-thirds of the PUD public and site improvements; and
2. The balance at the completion of the PUD public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the PUD public improvements. If a PUD project is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this subsection for each phase of the PUD project. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the village as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this subsection.