

CHAPTER 12 PUD PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 12.01 DESCRIPTION AND PURPOSE

- A. A Planned Unit Development (PUD) may be established as a zoning district for the use of land and the construction and use of buildings and other structures in Big Prairie Township when approved by the Township Board using the procedures of this Chapter.
- B. It is the purpose of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; to provide for enhanced site and building architectural features; and to create better living, working, and shopping environments.
- C. This Chapter permits a degree of flexibility to the usual requirements found in other Districts in order to accomplish these objectives.

SECTION 12.02 QUALIFYING REQUIREMENTS AND CONDITIONS

- A. An application for a Planned Unit Development (PUD) will not be accepted unless the following qualifying requirements and conditions of this Section are met.
- B. Unless waived by the Planning Commission, at least one (1) portion of the PUD site shall have at least five (5) contiguous acres, not separated by a public road, railroad, or other similar feature or barrier.
- C. If the PUD is to contain a mixture of residential and non-residential uses, the minimum required area shall be fifteen (15) acres.
- D. Noncontiguous Land:
 - 1. The Planning Commission may consider the purposes of a PUD found in Section 12.01 when considering whether to allow property separated by a public road, railroad, or other similar feature or barrier to be included in the PUD.
 - 2. The Planning Commission may also consider using noncontiguous property located in other parts of the township, provided the noncontiguous portion adds to an existing preserved open space, adds to a public park, or is dedicated to the public for a park or other open space.
 - 3. The applicant must demonstrate how the separated lands of the PUD would not interfere with the ability to develop a cohesive PUD.
- E. The Planning Commission may allow an application for a PUD on lesser acreage if it is clear that the proposed PUD substantially provides for the purpose of a PUD as stated in this Chapter.

- F. Utilities: All PUDs shall be served by approved sewer and water facilities and stormwater controls. Prior to having a building permit issued, approvals must be obtained from with the Newaygo County Drain Commissioner, Health Department, Michigan Department of Environmental Quality or other agency as appropriate, including any additional stormwater ordinance applicable to the Township.
- G. Land Ownership: The PUD application must be filed by the landowner, jointly by all of the landowners, or by an agent. If the application is filed by an agent(s) or other interested party, written approval from the landowner(s) must also be filed.
- H. Land Use Plan: The proposed uses of the PUD must be substantially consistent with Big Prairie Township's Land Use Plan for the property.

SECTION 12.03 PERMITTED USES

The following uses of land and structures may be allowed within a PUD:

- A. Single-family detached dwellings.
- B. Two-family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
- C. Multiple family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
- D. Golf courses, indoor tennis clubs, athletic clubs, and marinas, including ancillary commercial activities such as pro shops, restaurants (excluding those with drive through facilities), and similar uses open only to members and their guests.
- E. Any "Permitted Use" within the C District, provided that:
 1. The total site of the PUD is at least twenty (20) contiguous acres;
 2. The gross area designated for commercial use including parking, accessways, and yards or open space shall not exceed five percent (5%) of the gross site area of the PUD;
 3. All such uses are integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.;
 4. All provisions of Sections 12.4 and 12.5 are met.
 5. Such uses shall not materially alter the residential character of the neighborhood and/or the PUD;
 6. All merchandise for display, sale or lease shall be entirely within an enclosed building(s); and

7. Buildings designed for nonresidential uses are constructed according to the following schedule:
 - a. If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) of these units must be constructed prior to construction of any non-residential use.
 - b. If the PUD contains more than twenty (20) dwelling units, fifty percent (50%) of these units shall be constructed prior to the construction of any non-residential use.
 - c. No commercial uses shall be established without the construction and occupancy of at least twenty (20) residential dwelling units.
 - d. Accessory buildings, structures, and uses for Permitted Uses, as regulated by Section 3.09.

SECTION 12.04 DEVELOPMENT REQUIREMENTS

- A. Residential Density: The maximum permitted density for any residential development within a PUD shall not exceed the average gross density established in the Township Master Plan for that area. The total permitted density shall be determined through the submission of a plan indicating the general design based on the requirements of the existing zone district.
- B. The minimum lot area requirements for any lot designated for residential use may be reduced by ten percent (10%) of the underlying zone district requirement, provided, however, the Township Board may permit additional relaxation, not to exceed a total of twenty five percent (25%) based on demonstration that the project has been designed to protect and maintain the natural character of the site, and will not be harmful to surrounding land uses.
- C. Pedestrian Access: The PUD must provide for integrated safe and pedestrian access and movement within the PUD and to adjacent properties.
- D. Architecture: The PUD should provide for coordinated and innovative, visually appealing architectural styles, building forms and building relationships.
- E. Traffic: The PUD must provide for safe and efficient vehicular movements within, into and off of the PUD site. In addition, the PUD should integrate traffic calming techniques, along with suitable landscape medians, parking lot landscape islands and other similar techniques to improve aesthetics, storm water management, traffic flow and vehicular/pedestrian safety.
- F. Open Space Requirements:
 1. Usable open space shall occupy at least forty percent (40%) of the total PUD site.
 2. Usable open space shall not include required yards, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, wetlands, lakes,

rivers, or structures (unless the structures are part of the open space—*i.e.*, gazebos, artwork, swimming pool, riding stable, etc.).

3. Open space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the Township Attorney; or, if agreed to by a governmental agency, the open space may be conveyed to a governmental agency for the use of the general public.
4. Common open space shall be planned in locations visible and accessible to all in the development. The common open space may either be centrally located, located to preserve natural features, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
 5. Open space shall be situated to maximize the preservation of any existing site woodlands.
 6. A minimum one hundred (100) foot wide undisturbed open space setback shall be maintained from the edge of any stream, river, lake, or wetland; provided that the Township may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 7. Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.

G. Open Space Protection:

1. The dedicated open space shall be set aside in perpetuity by the landowner through a conservation easement that is acceptable to the Township.
2. The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement shall provide the following:
 - a. Allowable use(s) of the dedicated open space shall be indicated.
 - b. Require that the dedicated open space shall be maintained by parties who have an ownership interest in the open space. Requirements for scheduled maintenance of the open space shall be provided. The conservation easement shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.
 - c. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further subdivision of open space

land or its use for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township approval, and shall not diminish compliance with the requirements of this Chapter.

- d. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

SECTION 12.05 PRE-APPLICATION CONFERENCE

- A. A pre-application conference may be held with representatives from Big Prairie Township for the purpose of exchanging information, providing guidance to the applicant and determining the eligibility of the request for consideration as a PUD.
- B. A request for a pre-application conference shall be made to the Zoning Administrator. As part of the pre-application conference, the applicant shall submit a suitable number of copies, as determined by the Township, of a conceptual plan, at least seven (7) days in advance of the pre-application conference, which shows the property location, boundaries, land uses for the entire site and other information necessary as determined by the applicant as necessary for a thorough project understanding.
- C. The Township shall advise the applicant of the conformance of the PUD concept with the Purpose and Objectives of a PUD in the Township, whether it appears to qualify under the minimum requirements of Section 12.02. No formal action will be taken at a pre-application conference, nor will statements made at the pre-application conference be considered legally binding commitments.

SECTION 12.06 REZONING REVIEW AND APPROVAL

- A. Following the pre-application conference, applicants seeking approval of a PUD District shall submit a complete application for review to the Township. When the Township determines the application to be complete, the PUD application will be sent to the Planning Commission for a workshop session.
- B. The application shall include the following, unless determined by the Zoning Administrator to be unnecessary:
 - 1. A completed application form and twelve (12) copies of a preliminary development plan shall be provided to the Township. The preliminary plan shall contain the information required for preliminary plans in Chapter 13.
 - 2. Payment of a fee established by the Township Board.
 - 3. A narrative statement describing:
 - a. The objectives of the PUD and how it relates to the Purpose of the PUD District, as described in Section 12.01.
 - b. The relationship of the PUD to the qualifying conditions listed in Section 12.02.

- c. Proposed phases of development and approximate time frames for each phase, including anticipated start and completion dates of construction.
- d. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
- e. Planning Commission Recommendation
 - (A) Following notice as required by the Zoning Act, the Planning Commission shall hold a public hearing on the proposed PUD rezoning, for the purpose of receiving public comment on the PUD.
 - (B) Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the standards of 13.10; and shall make a recommendation to the Township Board to approve, approve with conditions, or deny the PUD rezoning request and Preliminary Development Phase.
 - (C) The Planning Commission shall include in its minutes the reasons for the recommendation to the Township Board.
- f. Township Board Review and Approval
 - (A) After receiving the recommendation of the Planning Commission, the Township Board shall hold a public hearing on the proposed Preliminary Development Plan and PUD rezoning, as required by the Zoning Act.
 - (B) Following the hearing, the Township Board shall review the application, including the preliminary development plan, the record of the Planning Commission proceedings and their recommendation.
 - (C) The Township Board shall make its findings based on the Standards for Approval of 13.10 as to approval, approval with conditions, or denial.
 - (D) Approval of the preliminary development plan shall constitute approval of the rezoning to the PUD District. If the application is approved with conditions, the rezoning shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary development plan to the Zoning Administrator.

SECTION 12.07 FINAL DEVELOPMENT PLAN REVIEW AND APPROVAL

A. Application Deadlines

1. The applicant shall submit a request to the Township for final PUD approval within twelve (12) months of the Township Board's approval of the PUD preliminary plan and rezoning. If the applicant fails to submit a request within this period, the preliminary site plan (not the PUD rezoning) shall be invalid.
2. Phased Approval
 - a. If the project includes phases, the applicant must submit a request for final development plan approval of a phase within twelve (12) months of the Township Board's approval of the preliminary plan and rezoning.
 - b. Following the final approval of the first PUD phase, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date of the previous phase.
 - c. If the applicant fails to submit the first phase within twelve (12) months or any subsequent phase within the twenty-four (24) month time period, then the preliminary site plan incorporating all phases for which a final site plan has not been approved shall be invalid.
3. Planned Unit Developments, whether established as a single or multiphase development, shall reasonably accommodate for the purpose of the PUD in each phase. The Planning Commission may require bonding or other similar financial obligation, which shall be established in the PUD agreement to ensure that this objective is met. If a portion of the PUD purpose is to provide for a variety of uses (i.e. – multiple family and single-family homes), then the proposed phasing schedule shall show how the development of these uses will be balanced in the phased development schedule.
 - a. Approval Time Extension: Upon written request to the Planning Commission made prior to the expiration of the approval the PUD may be extended for an additional six (6) months.
 - b. Final Development Plan Application: A final development plan application shall consist of the following, unless determined by the Zoning Administrator to be unnecessary:
 1. A completed application form, supplied by the Township.
 2. Payment of a fee established by the Township Board.
 3. A written response to the findings, review comments, and conditions, if any, from the Township Board's review and approval of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.

- c. A final site plan meeting the requirements of Chapter 13 for the PUD or phase that is being submitted.
- d. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
- e. A table which specifically details all deviations from the established lot and yard requirements, height, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and developments proposed without the PUD.

B. Planning Commission Review

- 1. The Planning Commission shall review the final development plan to ensure that it generally conforms to the approved preliminary development plan and any conditions of the PUD rezoning.
- 2. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of this Ordinance.
- 3. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the Standards for Approval stated in Section 12.08.
- 4. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- 5. Each development shall be under substantial construction within twelve (12) months after the date of approval of the PUD final development plan, except:
 - a. The Planning Commission may grant one (1) extension of up to an additional twelve (12) month period if the applicant applies in writing for the extension prior to the date of the expiration of the PUD or PUD phase.
 - b. An extension may be granted if the applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant.
 - c. If extended, any PUD requirements and standards that have changed since the original approval shall be met.
- 6. Should the time deadlines specified above not be fulfilled, or if an extension has expired without construction underway, the PUD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.

7. Should the PUD District become null and void, the Township Board has the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other zoning classification(s).
8. If the property is not rezoned, then the subject property remains zoned as a PUD, but the preliminary or final PUD plans previously approved become null and void. In order to utilize the property as a PUD, an applicant must resubmit an application for a final PUD site plan approval as required by this Chapter, but would not require PUD rezoning, unless the proposed PUD project includes different land uses than previously approved (i.e.- commercial versus residential).

SECTION 12.08 STANDARDS FOR APPROVAL

- A. A PUD preliminary development plan, rezoning, and final site development plan shall be approved only if they comply with all of the following standards:
 1. The proposed PUD complies with all Qualifying Conditions of Section 12.02.
 2. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
 3. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community.
 4. The proposed project is consistent with the spirit and purpose of the PUD District, as described in Section 12.01 and represents an opportunity for improved or innovative development for the community that could be difficult to achieve through conventional zoning.
 5. The proposed PUD meets all the site plan review standards of Section 13.06

SECTION 12.09 PUD AGREEMENT

- A. Prior to the issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant’s obligations with respect to the PUD.
- B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Township Board.
- C. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
- D. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.

- E. All documents shall be executed and recorded in the office of the Newaygo County Register of Deeds.

SECTION 12.10 CHANGES TO AN APPROVED PUD

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor Change Determination: 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. The Zoning Administrator may forward the proposed change to the Planning Commission even if it is a minor change if he believes that the effects of the change may alter the character or intent of the approved PUD.
- C. Minor changes shall include the following:
 - 1. Reduction of the size of any building and/or sign, unless it clearly affects the Purpose of the PUD.
 - 2. Movement of buildings and/or signs by no more than ten (10) feet.
 - 3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
 - 4. Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
 - 5. Internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
 - 6. Changes required or requested by Big Prairie Township, Newaygo County, and other State or Federal regulatory agencies in order to conform to other laws or regulations.
- D. Major Change Determination: A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application for the final development plan.