

Chapter Six

Planned Unit Developments

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Planned Unit Development (PUD)

6.1 Intent

It is the intent of this chapter to:

- A. Implement the comprehensive plan;
- B. Encourage a more creative approach in land development and site planning.

6.2 Applicability

- A. The provisions of this chapter may apply to any tract of land where it is in the best interest of the county to provide for added flexibility and creativity in development design.
- B. Uses permitted in a PUD may include any use or combination of uses that the commission and county commissioners find to be consistent with the comprehensive plan.
- C. Any development standard in this ordinance may be modified for a PUD; provided that, the commission and/or county commissioners find(s) that such modification promotes the purposes of this chapter and is consistent with the spirit and intent of this chapter. It is the responsibility of the applicant to provide justification for modification of any development standard.

6.3 Procedure for Authorization, Approval, Modifications, Extensions.

The authorization of a PUD shall be subject to the procedures expressed as follows:

- A. A petition to rezone property to a PUD may be filed by the following:
 1. The owners of all lots or parcels within the area proposed for rezoning;
 2. In the case of a single lot or parcel with multiple owners, all those having ownership interest in the lot or parcel.
- B. A petition to modify an approved PUD may be filed by the following:
 1. The owners of all lots or parcels within the area proposed for modification and other owners in the PUD affected by such modification;
 2. In the case of a single lot or parcel with multiple owners, all those having ownership interest in the lot or parcel.
- C. The commission shall hold a public hearing and make a recommendation to the county commissioners on the proposed PUD ordinance and PUD zoning in the same manner as for a map amendment. The commission may recommend approval or disapproval of the rezoning request. The commission may impose conditions on a favorable recommendation and/or request written commitments in accordance with the provisions of the zoning ordinance.
- D. The county commissioners may impose reasonable conditions on a proposed PUD and allow or require the owner of the real property to make written commitments in accordance with the provisions of the zoning ordinance.

- E. Adoption of the PUD ordinance by the county commissioners constitutes final approval of the preliminary PUD plan. After the PUD ordinance is adopted, the commission shall exercise continuing jurisdiction. The commission is authorized to conduct secondary reviews, grant approvals and make modifications to approved detailed PUD plans. The commission shall not modify the preliminary PUD plan or any condition or commitment allowed or required by the county commissioners.
- F. In the exercise of its continuing jurisdiction, the commission may from time to time allow the petitioner to modify the approved detailed PUD in a manner consistent with the approved preliminary PUD plan to allow for changed circumstances and conditions unforeseen at the time of original approval. Except as provided below, such modifications shall be considered in the same manner as the secondary review, and notice shall be given and a hearing held in accordance with the commission's rules of procedure.
- G. The staff is authorized to approve minor modifications as specified herein.

6.4 Preliminary and Secondary Review.

- A. An application for rezoning to PUD shall include or incorporate by reference the following:
 - 1. Legal description of the property involved in the request;
 - 2. Boundaries of the tract and all existing lots or parcels within the tract;
 - 3. Drawing of the site and adjacent land showing the physical features, topography, drainage ways, regulated drains, easements, water bodies, tree cover, existing buildings, existing land uses, and existing zoning and the relationship of the proposed development to these features;
 - 4. Streets on and in the vicinity of the tract;
 - 5. Ingress and egress to the tract;
 - 6. A listing of all principal and accessory uses and all temporary uses to be permitted in the PUD district, the location of each general land use area proposed to be developed, and the land area to be devoted to each use;
 - 7. Proposed density levels of each residential area;
 - 8. Proposed square footage of nonresidential buildings and areas, if any;
 - 9. Preliminary plan for permanent and temporary signs;
 - 10. Proposed general location of major vehicular circulation, showing how this circulation pattern relates to the official thoroughfare plan of the county;
 - 11. Location of existing or proposed schools, parks and other community facility sites, if any;
 - 12. Time schedule of projected development and any proposed phasing of the project;
 - 13. An enumeration of covenants, in general terms, proposed to be made a part of the development;
 - 14. A preliminary analysis of the traffic impact of the development and measures proposed to mitigate traffic problems;
 - 15. A written narrative describing the relationship and consistency of the proposed development with the comprehensive plan;
 - 16. Any other materials or information the commission deems necessary for a fair and complete evaluation of the proposed development.
- B. The commission shall conduct secondary review as specified in Indiana law and further described in this section.

1. The commission may approve a detailed PUD plan only after a public hearing. Notice shall be given to interested parties and the hearing conducted in accordance with the commission's rules of procedure.
 2. No development shall take place until the commission has approved a detailed PUD plan. If a subdivision plat is filed in conjunction with the detailed PUD plan, appropriate plans and details listed below may be included on the subdivision plat rather than on the PUD plan. The detailed PUD plan or subdivision plat shall include the following:
 - a. Accurate boundaries of all lots;
 - b. Township lines;
 - c. Drainage plan;
 - d. Sewage disposal plan;
 - e. Water system plan;
 - f. Accurate location and size of recreational facilities;
 - g. Site perimeter treatment and other pertinent site development features, including parking and circulation;
 - h. Landscape plan, including sizes, types and location of plants and other landscape features;
 - i. Land uses on each parcel and/or in each building shown on the plan;
 - j. Locations and features of proposed buildings. Unless required by the commission to ensure compatibility with neighboring properties, the detailed PUD plan need not show precise building locations, but the plan shall set forth the development standards for all buildings and uses;
 - k. Sign plan, providing for all permanent and temporary signs to be placed on the property;
 - l. Any other details needed to ensure compliance with the preliminary PUD plan.
 3. Approval of the detailed PUD plan shall be granted only upon a finding by the commission that the plan is consistent with the approval preliminary PUD plan.
 4. The approved detailed PUD plan shall be marked, "Approved Detailed Planned Unit Development" be signed by the president and secretary of the commission, and bear the commission's seal. One recorded copy shall be permanently retained in the offices of the commission.
- C. Any decision of the commission to approve or deny approval of a detailed PUD plan hereunder is a final decision that may be appealed to the county commissioners; provided that, any refusal by the commission to approved a detailed PUD plan shall not limit the right of the petitioner to continue to seek approval, nor shall it impair the right of the petitioner to request an extension of time for approval, if no appeal is filed.
- D. The commission may allow the petitioner to develop the property involved in phases. If such phasing is permitted, the petitioner shall submit detailed PUD plans which correspond to the phases involved, and the phases shall be developed in the order approved by the commission. Such detailed PUD plans for phases, when approved, shall be treated in the same manner as the approved detailed PUD plan for an entire PUD.

- E. Where platting, replatting or vacation of streets within all or a portion of the land involved is contemplated, the commission shall handle such matters in accordance with its regular procedures in accordance with law.
- F. No construction or installation work shall be done on any public improvement until satisfactory plans and specifications therefore have been approved by the commission as part of the approved detailed PUD plan or as part of a subdivision in accordance with the subdivision ordinance.

6.5 Minor Modifications.

- A. Minor modifications are changes that do not do any of the following:
 - 1. Alter the basic relationship of the proposed development to adjacent property;
 - 2. Change the uses permitted;
 - 3. Increase any of the following by more than fifteen (15) percent (this total is cumulative for all modifications to the PUD):
 - a. The maximum density,
 - b. The maximum floor area,
 - c. The maximum height.
 - 4. Decrease the amount of off-street parking to an amount not adequate for the use. In determining the amount of parking that is adequate, the staff shall consider the amount otherwise required by the zoning ordinance for this use and empirical studies of the parking needs for the use;
 - 5. Reduce the approved yards or setbacks by more than fifteen percent;
 - 6. Alter site ingress or egress in any way or create a substantial change to on-site circulation, as determined by the county engineer.
- B. Upon receiving a request for a minor modification, the staff shall have ten (10) working days to respond to the petitioner, by either approving or rejecting the request. An application may appeal the decision of the staff to the commission.

6.6 Abandonment or Expiration

- A. The county commissioner's approval of the preliminary PUD plan shall be valid for two (2) years after the date the county commissioners adopt the PUD ordinance. Within this two (2) year period, the PUD shall receive approval of the final detailed PUD plan for the first section or the entire development. Should the planned development not receive approval of the detailed PUD plan for at least one section or the entire development within the two (2) years, the county commissioners, commission or property owner may initiate a rezoning of the property. The commission may extend the approval period, not to exceed five successive periods of no more than two (2) years each. The approval of the detailed PUD plan for each section of the preliminary PUD plan shall extend the approval length of the preliminary PUD plan for two (2) years.
- B. Commission approval of a detailed PUD plan shall expire if the plan is not recorded as required within six (6) months after the approval date. Commission approval of a detailed PUD plan shall expire after a period of five (5) years from the approval of a detailed PUD unless the development in any phase has been substantially begun and pursued with due diligence. The commission may grant extensions of time not to exceed five successive periods of no more than two (2) years each. If the detailed PUD plan expires as provided in this section, the commission may require the plan to be resubmitted for approval, and they shall conduct a secondary review as if the plan

were a new filing. Alternatively, the commission may opt to initiate a rezoning of the property to a classification other than PUD.

- C. A development approved under this chapter shall be deemed to be abandoned or discontinued if it has expired under subsection B of this section or when no improvements have been made pursuant to the detailed PUD plan for a period of twenty-four (24) consecutive months. When a PUD has been abandoned or discontinued, the detailed PUD plan shall no longer be valid, and no development shall be permitted until the plan is reapproved, a new plan is approved, or the property is rezoned.

6.7 Permits and Enforcement

- A. The staff shall not issue a building permit for development or improvements in a PUD district unless all recording required by this chapter has been effected. No certificate of occupancy shall be issued for a PUD district unless the development complies with the approved detailed PUD.
- B. All development shall be in conformity with the approved detailed PUD. In the exercise of its continuing jurisdiction, the commission shall take cognizance of any material deviations from the approved detailed PUD and take appropriate enforcement action. Only those uses shown on the approved detailed PUD plan shall be permitted; all other uses are prohibited.

6.8 Covenants and Maintenance – Financial Guarantees

- A. Covenants may be required by the commission as an ingredient for stability and longevity of the PUD. If submitted, the covenants shall set forth in detail provisions for the ownership, administration and maintenance of facilities held in common so as to ensure their continuity and conservation. Such covenant provisions shall include specific remedies in the event facilities held in common are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the entire county in such event the county may take those remedial steps provided for such provision. The covenants shall be recorded with the detailed PUD plan.
- B. The commission may require the recording of covenants for any reasonable public or semi-public purpose, including but not limited to the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities and other public and semi-public purposes wherever necessary in conformity with the land use plan of current adoption. Such covenants may provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within the specified period of time, the applicable elements of the covenants shall automatically terminate. If such termination occurs, the petitioner shall then submit for approval by the commission a modified detailed PUD plan for such land consistent with the approved preliminary PUD plan. Such modified detailed PUD plans, when approved, shall be treated in the same manner as approved detailed PUD plans for an entire PUD.
- C. The commission may require the recording of covenants for any other reasonable purpose, including but not limited to imposing standards for development of property in a PUD. Such development standards may include, but are not limited to, requirements as of the following:

1. Lot area;
 2. Floor area;
 3. Ratios of floor space to land area;
 4. Buildable area or the area in which structures may be built;
 5. Open space;
 6. Setback lines and minimum yards;
 7. Building separations;
 8. Height of structures;
 9. Signs;
 10. Off-street parking and loading spaces;
 11. Design standards;
 12. Phasing of development.
- D. The petitioner shall provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the subdivision ordinance.
- E. Adequate provision shall be made for a private organization with direct responsibility to and control by the property owners involved to provide for the operation and maintenance of all common facilities, including private streets. Assurances or guarantees, satisfactory to the commission, shall be provided to demonstrate that the private organization is self-perpetuating and adequately funded to accomplish its purposes.
- F. Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge to the beneficiaries thereof. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- G. All private streets shall be maintained by the responsible private organization in such a manner that adequate access is provided at all times to vehicular traffic, so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that such vehicles will have adequate maneuvering area. Such private streets shall be developed in accordance with the subdivision ordinance.

6.9 Financial Guarantees

As a condition of approval, the commission and/or county commissioners shall require any appropriate financial guarantees to insure the timely completion of any improvement related to the PUD.