

Part II
Article VIII

PLANNED UNIT DEVELOPMENT DISTRICTS

Section 800 Purpose

It is the intent of this Planned Unit Development District article to provide land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof, may be developed with a variety of residential types and non-residential uses, which are planned and developed as a unit.

This article specifically encourages innovations so that the growing demands for housing may be met by greater variety of type, design, and siting of dwellings by the conservation and more efficient use of land. This article also encourages the conservation and more efficient use of the land for non-residential development.

This article recognizes that a rigid set of space requirements along with building and use specifications would frustrate the application of this concept. Therefore, where PUD techniques are deemed appropriate, the land may be designated for PUD development as a PUD District. When an area is so designated, the use and dimensional specifications elsewhere in the Zoning Ordinance are replaced by an approval process in which an approved development plan as allowed in IC 36-7-4-1500, becomes the basis for continuing land use control.

Section 801 Objectives

To carry out the intent of this Article, a PUD endeavors to provide:

1. A choice in the types of environment, occupancy tenure, types of housing, types of ownership, and community facilities available to existing and potential residents.
2. Usable open space and recreation areas.
3. Convenience in the location of accessory commercial and service areas.
4. Preservation of natural topographical and geological features with emphasis on:
 - A. prevention of soil erosion,
 - B. conservation of existing surface and subsurface water, and
 - C. preservation of tree cover and other environmentally enhancing features
5. An efficient network of streets and utilities;
6. The development of a pattern in harmony with the objectives of the City's Comprehensive Plan
7. A more efficient utilization of the land than what might be obtained through other development procedures.

Section 802 Delegation and Election

The Common Council, pursuant to IC 36-7-4-1511, hereby delegates to the Plan Commission:

- A. Authority to conduct secondary review of a PUD district ordinance under IC 36-7-4-1509 (c):
- B. Authority to modify permitted uses or development requirement that are specific in a PUD district ordinance.

Except as provided in Section 874 there shall be no appeal to the Common Council from any decision of the plan Commission pursuant to (a) or (b) above. Such decisions of the Plan Commission may be reviewed by certiorari procedure in the same manner as that provided for the appeal of a decision of the Board of Zoning Appeals.

The Common Council pursuant to IC-36-7-4-1509(a1) hereby elects to establish development requirements expressed in general terms.

Section 805 Definitions

As used in this Ordinance, the following words mean:

1. Concept Plan - a plan for an entire parcel of land, drawn to scale, that generally indicates densities, uses, a calculation of what percentage of the entire parcel is devoted to each different use classification, and infrastructure locations including open space - common and public.
2. Development Plan - as defined in state statutes as a plan that includes "development requirements that are required for the development of a parcel of land according to standards; and requirements that conform to IC 1403. Once approved, the Development Plan shall designate the PUD parcel as a PUD District and the zoning map shall be amended to so indicate.
3. Open Space - any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment. Such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.
4. Planned Unit Development (PUD) - the development of an area of land as a single entity for a number of dwelling units or a number of uses conforming to an approved Development Plan, which may not correspond in lot size, bulk, or type of dwelling, density, lot acreage or require open space to the regulations otherwise require by other Ordinances.
5. Primary Plat approval - the conferral of certain rights pursuant to this act prior to final plat approval after specific elements of the Development Plan have been agreed upon by the Plan Commission and the City Council.
6. Secondary Plat approval - the official action of the Plan Commission taken after all conditions, engineering plans and other requirement have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion or approval conditioned on the posting of such guarantees within 60 days of Secondary Plat approval.
7. Site Plan - a site development plan of the entire PUD which delineates: (1) the existing and proposed topography of the lots, (2) the location of all existing and proposed buildings (other than single family residential), parking spaces, means of ingress and egress, drainage facilities, landscaping, structure and signs, lighting, screening devices, and (3) any other information that maybe reasonably required in order to make an informed determination.

Section 810 General Process for Development of a PUD

1. Developer files a concept site plan and draft development plan for a PUD with the Planning Office.
2. A Site Review is schedule for the concept and development plans.

3. Both concept and development plans are presented to Plan Commission in a public hearing.
4. Plan Commission recommends to City Council both concept and draft development plan, and that this parcel be rezoned PUD.
5. City Council votes on rezoning to PUD, concept, and draft development plans with any Written Commitments attached.
6. Developer files a primary plat and Final Development Plan with Planning Office. Both are scheduled for public hearing at Plan Commission.
7. Plan Commission holds public hearing on primary plat and final Development Plan.
8. Primary plat and final development plan are approved by Plan Commission.
9. Secondary Plat is filed with Planning Office.
10. Secondary Plat is approved by Plan Commission, and plat and Development Plan are recorded by developer.

If a PUD is halted or abandoned for longer than one year, it is considered abandoned, and the developer must ask the Plan Commission for an extension or reaffirm approved plans, or ask for amendments to approved plans.

Section 815 Uses

Same as existing ordinances. All uses shall be specified in the final Development Plan.

Section 820 General Requirements

1. No building shall be closer than 25 feet to any lot line dividing land inside the PUD from land zoned or used as residential outside the PUD.
2. Site and structure regulations for PUDs shall adhere to the following regulations:
 - A. Plot and lot sizes, dimensions, and structure heights, and locations may be freely disposed and arranged in conformity to the overall density standards recommended by the Plan Commission or stated in this Article. Minimum lot size and frontage, and maximum lot coverage are not specified but the Plan Commission may be guided by standards set in other Zoning Ordinances and by common good practice.
 - B. A minimum of 30-foot front yard setback shall be provided on any highway or thoroughfare designated as arterial or collector on the Official Thoroughfare Plan.
 - C. Every residential dwelling unit, commercial, or industrial complex or building shall have access to a public street, court, cul-de-sac, walkway, or other area dedicated to public use or subject to an easement for access. The boundaries and extent of the lot or plot upon which any single unit detached or attached dwelling is located shall be clearly defined and monumented.
 - D. Right-of-way and pavement widths for internal ways, streets, and alleys shall be determined from sound planning and engineering standards in conformity with the estimated needs of the full development proposed and the traffic to be generated, and shall be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting equipment and other emergency vehicles.
3. Utilities. A developer of a PUD shall furnish public water and sanitary sewage facilities based on agreement with the appropriate municipal officials. The developer shall provide all necessary storm drainage, highway access, paved service streets, parking facilities, fire hydrants, off-street lighting and other public improvements deemed necessary by the City,

and shall make reasonable provision for service to the connections with adjoining properties in other ownership.

4. If the PUD contains 10-50 residential units, the PUD shall contain a minimum Open Space of .1 acre. If the PUD contains more than 50 residential units, the minimum Open Space is .01 acre per residential unit. The open space may consist of:
 - A. an area owned and maintained by a Property Owner's Association; or
 - B. with the consent of the City Park Department, an area dedicated to the public for park purpose.

If neither A) nor B) are feasible, the PUD district ordinance may, with the agreement of the developer, be made subject to a written commitment that the developer will pay to the city for park purposes an amount equal to the value of such acreage.

Section 830 Residential PUDs

All PUDs designated by its Development Plan as a residential PUD shall be in compliance if a residential PUD is greater than 25 acres, the site plan may include a parcel of land designated for commercial use that is not more than 10% of the total gross development. The types of commercial uses shall be determined and specified as part of the Development Plan. All change of use after the Development Plan approval shall be reviewed and approved by the Plan Commission.

Section 835 Commercial PUDs

All Commercial PUDs shall be in compliance with the following regulations:

1. All Commercial PUDs abutting a residential district shall provide a minimum 25-foot planted greenbelt along the entire width of abutment.
2. All Commercial PUDs shall provide a 10-foot planted greenbelt around the perimeter of the entire development excluding streets, sidewalks, and drives. This greenbelt shall NOT be considered part of the required open space.
3. A maximum of 10% of the total Commercial PUD may be used for residential purposes
4. A maximum of 5% of the total Commercial PUD may be used for industrial purposes if they are deemed compatible with the commercial and/or residential uses. Compatibility shall be determined as part of the PUD Development Plan.

Section 840 Industrial PUDs

All Industrial PUDs shall be in compliance with the following regulations:

1. A minimum of 20-foot planted greenbelt shall be provided around the entire perimeter excluding drives, streets and sidewalks. This greenbelt shall NOT be part of the required open space.
2. A maximum of 30% of the total area can be used for commercial uses.

Section 850 Variances

All variances to this ordinance shall be part of the approved Development Plan. Variances shall be determined acceptable if the Plan Commission finds:

1. the general requirements of this ordinance would cause unnecessary hardship or practical difficulties because of exceptional and unique topography, access, location, shape, size, drainage or other physical features of the site; or

2. the Plan Commission finds that due to the size, shape location, permitted use, or uniqueness of the development a variance would constitute good planning, and would not adversely affect the public health, safety morals or welfare, or the rights of adjacent property owners. All variances recommended by the Plan Commission based on the above findings, shall be part of the approved Development Plan, and may include conditions imposed by the Plan Commission to substantially secure objectives of this ordinance.

For variances requested after the Secondary Plat and/or Development Plan has been approved see Section 870. All approved variances shall be recorded.

Section 855 Primary Plat Procedures

All PUD developers shall present a complete concept site plan and draft development plan (see Article 35, Section 3520) to the Site Review Committee at least a month before the public hearing at the Plan Commission. The Site Review Committee shall review both and comments shall be recorded and minutes distributed to participants and Plan Commission members. The Plan Commission shall, if all issues are resolved, make a recommendation on the concept plan and draft development plan to the City Council.

At the next City Council meeting, a vote on the concept plan and draft development plan may be requested. When the concept plan and draft development plan are approved by the City Council, then the primary plat can go to public hearing at the Plan Commission.

A proposed primary plat for a PUD shall be filed with the Planning Office as part of a primary plat petition. The petition shall include a list of all property owners within 300 feet of the PUD, and a legal description of the PUD.

At least a month before the Plan Commission public hearing for the primary plat, the PUD developer shall present to the Site Review Committee a primary plat and final Development Plan. Comments shall be recorded and distributed to participants.

The Planning Office will set a public hearing for the Plan Commission and a Site Review Committee meeting. The Plan Commission shall within 45 days of the public hearing approve or deny the primary plat with Findings of Fact. It is the obligation of the Plan Commission to work with PUD applicants to get the best possible development. If the Plan Commission approves the primary plat, Development Plan, and PUD Findings of Fact, the developer can then present a Secondary Plat. Approval of a primary plat shall not constitute authority to proceed with any construction of any improvements.

If the Plan Commission denies the primary plat or the Development Plan, it must specify reasons in a Finding of Fact statement. The Plan Commission may recommend further study of the site and/or Development Plan and resubmission at a later date. Approval of a primary plat does not obligate the Plan Commission to approve a Secondary Plat.

An approved primary plat is valid for two years. If no Secondary Plat is approved within the two years, the PUD developer must appear before the Plan Commission and request an extension. The Plan Commission may approve or deny the extension.

Section 860 Primary Plat Contents

All PUD Primary Plats shall contain the following information:

- A. Name and address of applicant, developer and owner
- B. Location of PUD parcel per a scaled location map
- C. Existing topography features of the site
- D. Phasing schedule of development
- E. Location of proposed open spaces
- F. Delineation of all uses and area in acres of each use
- G. Total number of residential units and percent of each type of residential uses
- H. Delineation of each commercial and/or industrial use, and total number of such units and percent allocated to these uses
- I. Density percents of every residential use based on gross acres
- J. Delineation of areas subject to flooding including data on frequency and extent
- K. Delineation of all areas that lie in an aircraft pattern Drainage Plan.
- L. Delineation of all easements, right-of-ways, covenants or any other restrictions imposed upon the land or buildings
- M. Proposed delineation of utilities, pavements, sidewalks, alleys, and parking, including widths
- N. General description of community services available to the development's residents including schools, fire protection, parks and all public/private utilities
- O. General statement on proposed ownership and maintenance of common open space
- P. Proposed construction schedule
- Q. Adjacent land uses, topography, and all existing streets and driveways on the perimeter of the PUD
- R. A final Development Plan with all Written Commitments approved by the City Council

Section 865 Secondary Plat Content and Procedures

A PUD Secondary Plat of all or part of a PUD primary plat can be filed with the Planning Office any time after the Plan Commission approves a primary plat. The Secondary Plat will be placed on a Plan Commission agenda. It does not require a public hearing. The Plan Commission shall have a maximum of 45 days to approve or deny a secondary plat. Approval of a secondary plat does not authorize construction unless the Board of Public Works and Safety has approved construction plans and any necessary surety. The recording of the approved Secondary Plat shall inform all whom deal with the PUD of the restrictions placed on the land and act as a zoning control device.

- 1. Content of a PUD Secondary Plat
 - A. Final uses delineated and suitable for recording.
 - B. All subdivided lands delineated as required for all subdivisions.
 - C. Legal description of each subdivided lot including all common open space.
 - D. Address for each lot and common open space.
 - E. Street names that have been approved by the postal service and local emergency care providers.
 - F. Location and dimensions of all building lots, permanent common open space, easements and right-of-ways.

- G. Reference to protective covenants, final total of acres, building sites by use, and density of each use.
 - H. Other information as required in the Subdivision Ordinance
2. At the time a Secondary Plat is presented, a PUD developer also shall provide:
- A. Six (6) copies of engineering plans that are drawn to scale and include all easements and buildable plans for all infrastructure prepared, signed and sealed by an Indiana licensed engineer
 - B. An affidavit guaranteeing the completion of all public infrastructure. The guarantee may be in the form of
 - 1.) a developer's bond one and one-half the amount of the estimated cost of all public improvements yet to be completed; or
 - 2.) cash in the amount of one and one-half times the estimated cost of all public improvements yet to be completed; or
 - 3.) a lien to be recorded on all the land proposed to be part of the PUD, with partial releases possible after the loan company and the City agree on the estimated cost of all public improvements yet to be completed and the loan company agrees to hold in escrow one and one-half times the estimated cost; or
 - 4.) a deposit with the City other collateral equivalent to one and one-half times the estimated uncompleted public improvement cost.

The Board of Public Works and Safety must approve the construction plans for any public improvements and any necessary surety prior to recording the secondary plat.

Section 870 Findings of Fact Planned Unit Development

The Plan Commission will use the following findings and form for all PUD primary plat approval or denial.

The City Plan Commission, City of Valparaiso now makes the following findings of fact in support of its approval/denial of the following petition for a Primary Plat of a Planned Unit Development:

Name of petitioner_____

Date_____

Name of project_____

This Primary Plat of a Planned Unit Development:

- _____ is consistent with the stated purposes of the PUD regulations
- _____ meets the requirements and standards of the PUD regulations
- _____ deems the proposed departures from the zoning regulations including but not limited to density, dimensions, area, bulk, and use, to be in the public interest
- _____ there are adequate provisions in the physical design for public services, control over vehicle traffic, and protection of designated open spaces that further the amenities of light, air, recreational and visual enjoyment.
- _____ includes adequate structures and roadways built in areas susceptible of flooding, ponding or erosion

____ is compatible and beneficial to the adjacent properties and neighborhood
____ adds to the physical development, tax base, and economic well-being of the entire community
____ conforms with recommendations of the Comprehensive Plan
____ appears to conform with all existing federal, state and local legislation and regulations.

The Plan Commission approved/denied by a vote of ____ to ____

President of the Plan Commission _____

Section 874. Major Conceptual Changes

At any time after Common Council approval of a PUD and Development Plan pursuant to Section 810(5), no major conceptual change to the PUD or Plan may be made without the approval of both the Plan Commission and the Common Council. A major conceptual change is defined as any of the following:

- (1) the land area covered by the PUD is changed;
- (2) a use previously not permitted is added;
- (3) 10 % or more of the land area of the PUD is shifted from one zoning classification to another, net of any compensating changes;
- (4) within any residential use classification, the density of the use (as measured by living units) is increased by 10% or more;
- (5) any other specific type of change which the Common Council specifies at the time it approves the PUD and Development Plan; or
- (6) any other change which so modifies the intent or concept of the PUD that the Plan Commission determines requires action by the Common Council.

Section 875 Amending a PUD and/or a Development Plan

All PUDs shall be constructed and developed as delineated on the approved Secondary Plat and Development Plan as recorded. All recorded documents and amendments shall be binding on applicants, their successors, grantees, and assigns, and shall limit and control the use of the PUD land and location of structures. After all plats and documents have been recorded, any major amendments to the PUD will require a public hearing and approval by the Plan Commission. Any minor amendments will require approval by the Plan Commission. Both major and minor approved amendments shall be recorded with the Porter County Recorder.

1. Major amendment - any change which alters the concept, uses or intent of the PUD including increase in density, increase in height of buildings, reduction of open space, changes in sequence of development, changes in road/street standards, and/or changes in covenants and/or the approved Development Plan.

2. Minor amendment - any change that does not alter the concept or intent of the PUD or the Development Plan and is not defined as a major amendment.

All changes to the Secondary Plat shall be recorded with the County Recorder as amendments to the Secondary Plat or reflected in the recording of a new corrected Secondary Plat.

In addition to any requirement in this section, any change which fits the definition in Section 874 of a “major conceptual change” shall require the approval of the Common Council.

Section 880 Fees

Any person, firm, corporation, or agent who shall file a petition for amendment, or application for appeal, variance, special use, planned unit development (PUD) or for other certificate of license required under the terms of this Ordinance, shall be charged a fee in accordance with the City of Valparaiso's established schedule of fees as listed in the City's Municipal Code.

Section 890 Penalties

Any person, firm, corporation, or agent or any employee or contractor of same who violates, destroys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this Article shall be subject to fines as provided in Article XII of this Ordinance. As offense is deemed committed each day during, or on, which a violation has occurred.

Section 895 General Administration

In administering its responsibilities under this ordinance, the Plan Commission may promulgate any rules, negotiations, or procedures consistent with this Ordinance or state law.