



TOWN COUNCIL SPECIAL JOINT WORK SESSION

Monday, April 29, 2024 @ 7:00PM

Town Hall Conference Room

View meeting online LIVE at <https://www.frontroyalva.com/673/Town-Hall-Live>

- 7:00pm** 1. Mayor Cockrell brings the meeting to order.
- 2. Roll Call by the Clerk of Council ~ (Planning Commission and Town Council)
- 7:05 pm** 3. Discussion on Planned Neighborhood Development District (PND)
- 8:00 pm** 4. Discussion on Vape Shops
- 8:30 pm** 5. Discussion on Short Term Rentals (STR)
- 9:00pm** 6. Adjourn

Joint Meeting Outline

Agenda Item

1. *PND Discussion*

- a. What is a PND
 - i. Review of literature
 - ii. Towns Ordinance
 - 1. Process
 - 2. Permitted uses
- b. Comparison of Town vs Other Locality
- c. What do you like about the Towns' Ordinance?
 - i. Think in terms of
 - 1. process
 - 2. uses, integration of uses
 - 3. open space area requirements
- d. What are your concerns?
 - i. Not related to specific applications
 - ii. Do you agree with the intent of the chapter?
 - iii. Are requirements strict enough? Not strict enough?
 - iv. Additional uses to be added or removed?

2. Vape Shops

- a. Staff will explain different regulatory methods.
- b. Council needs to articulate which methods are desirable for PC to review.

3. STR

- a. Staff will review current ordinance and requirements.
- b. Discussion of concerns
 - i. Parking
 - ii. Underlying zoning
 - iii. Level of regulation
 - 1. STR constitute an expansion of use, therefore should they require additional regulations?

ZONING**PRACTICE**

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PRACTICE PUDs



Planned Unit Developments and Master Planned Communities: Review and Approval Processes

By Daniel R. Mandelker, FAICP

A local government must adopt a process in which it approves planned unit developments and master planned communities.

The procedures for PUD review and approval are now fairly standardized and resemble procedures for other land-use approvals, such as subdivision approvals. The critical step is the approval of the development plan, which contains a map and text that govern project development. The planned unit development ordinance contains approval standards the legislative body must apply when it decides whether to approve a development plan. Depending on how the ordinance is written, the development plan can supplement an underlying zoning ordinance, or it can provide an independent set of regulations for the planned unit development.

Local governments use three different procedures for approving development plans:

- A three-step procedure beginning with the submission and approval of a generalized concept or sketch plan, followed by the successive submission and approval of a detailed preliminary and final development plan. A development plan may be adopted for the entire project, or it may be adopted in phases for each phase. The final development plan is simply the final confirmation of what was in the preliminary plan.
- A two-step procedure that omits the concept or sketch plan and requires only the approval of a detailed preliminary and final development plan. For phased developments, the approval of a detailed development plan for the entire project is followed by more detailed site plans for each phase.
- The submission of a final development plan without the submission and approval of a preliminary development plan.

This issue of *Zoning Practice* reviews each of the steps in the rezoning process for planned unit developments and recommends ordinance provisions that can enact them. The approval of a development plan requires decisions by the legislative body and the planning commission.

OVERLAY DISTRICT OR NEW BASE DISTRICT?

The local government should choose between designating the planned unit development district as an overlay district that provides regulations supplementary to the underlying zoning district, or as a new base district that displaces the zoning in the underlying district. In either case, the municipality will approve a development plan that contains maps and text with the regulations that apply to the planned unit development. The second approach is preferable, though overlay zoning may be appropriate if only marginal changes from the underlying zoning regulations are contemplated.

APPROVAL OF DEVELOPMENT PLAN AT TIME OF REZONING

In some instances, the approval of a development plan for a planned unit development occurs following the adoption of a planned unit development district. A community may prefer to require the approval of a development plan at the same time it approves the planned unit development district so it will know at that time what kind of development it has allowed.

REZONING WITH CONDITIONS

In some jurisdictions, a rezoning for a planned unit development district is accom-

panied by conditions (or stipulations) adopted by the legislative body. These conditions can be quite extensive. Because they are negotiated on a case-by-case basis, they are not specified in the ordinance and can cover any issue that affects the planned unit development. The relationship between the rezoning conditions and the development plan is important. The rezoning conditions can provide that the development plan is incorporated into the rezoning ordinance as a condition. Other rezoning conditions would then supplement the plan or at least not contradict it.

Another option for the approval of a planned unit development is to authorize its approval as a special or conditional use or permit. This is one of the options provided by the American Planning Association's *Growing Smart Legislative Guidebook*. Approval as a special or conditional use is practicable, however, only for a planned unit development on a limited scale that does not require substantial changes in land use and intensities. An example would be a residential cluster housing planned unit development that does not require an increase in density or change in use. The board of zoning appeals, which usually approves conditional uses, does not have the authority or expertise to approve large-scale developments that require major planning and land-use decisions.

Approval of a planned unit development as a subdivision is also possible in limited circumstances in which there is no change in use or density. The *Legislative Guidebook* also includes a general provision

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This issue of *Zoning Practice* is derived from portions of Chapter 3 of Daniel R. Mandelker’s Planning Advisory Service Report 545, *Planned Unit Developments*.

for the approval of planned unit developments as subdivisions. Coordination with approval under the subdivision is required if planned unit developments are approved under the zoning ordinance.

THE ZONING PROCESS

The preapplication conference. Many communities begin the planned unit development review process with a preapplication conference. It can be mandatory or optional. This is desirable and standard practice in any land-use procedure. It can be especially helpful in planned unit development review when a major project is contemplated that requires complex planning and design decisions. Planned unit development ordinances contain a variety of preapplication conference requirements. Some simply require a conference with planning staff, and some are more elaborate and require comments by planning staff that the applicant must take into account. An informal meeting with the legislative body may also be required and can be helpful, especially for a master planned community.

The concept or sketch plan. Many planned unit development ordinances authorize or require the submission of a concept, sketch, or outline plan to begin the application review process. This kind of plan is sometimes called a “bubble” plan because it identifies uses and densities in circles, or “bubbles,” on the plan map without additional detail. The purpose of requiring a concept plan is to give the legislative body an

RECORDKEEPING

The approval of numerous planned unit developments and master planned communities in a community can create serious recordkeeping problems that can make the monitoring of planned unit developments and enforcement of the planned unit development ordinance difficult. A planned unit development can produce a large number of documents, depending on how it is approved. These can include:

- ◆ Approved concept and development plans
- ◆ A design handbook or plan in addition to the final development plan
- ◆ Building permits and certificates of compliance with the final development plan
- ◆ Enforcement actions, if any
- ◆ Resubdivisions, resales and leases of all or part of the project
- ◆ Dedications of land, easements, or other documents created to preserve and manage common open space and natural resource areas. This can include documents associated with a transfer of development rights program, if there is one.
- ◆ Exactions or impact fees for public facilities
- ◆ Agreements concerning the provision of public services, such as water supply and sewerage, highways and highway access, and other public facilities
- ◆ The rezoning ordinance
- ◆ Conditions attached to the rezoning ordinance
- ◆ A development agreement
- ◆ Private restrictions and covenants that apply to the planned unit development
- ◆ Documents associated with approval under the subdivision ordinance
- ◆ Documents concerning the creation of special development or other district to provide public services and facilities

opportunity to approve the critical elements of a planned unit development that require legislative approval. It usually is not possible to vest a right to develop at the concept plan stage, however, because the plan does not contain enough detail to allow vesting. A concept plan will be processed like a normal zoning amendment, with reference to the planning commission for comment if this is the procedure that is established locally. The concept plan is especially useful for large master planned communities that will be built in phases over a substantial period of time.

Approval and effect of concept plan.

Provision must also be made for the approval and effect of the concept plan:

- (1) The planning commission shall forward a recommendation to the [legislative body] that the concept plan be approved as submitted, approved with modifications, referred for further consideration, or disapproved. Upon receipt of the recommendation of the planning commission, the [legislative body] shall determine whether or not to [adopt a proposed zoning change to establish the proposed planned unit development district and] approve the concept plan.
- (2) Approval of the rezoning and related concept plan shall establish the basic uses, densities, and intensities for the planned unit development in conformity with the plan as approved, which shall be recorded by the zoning administrator as an integral component of the planned unit development district regulations, but the concept plan shall be conditioned upon approval of a final development plan, and shall not make permissible any of the uses, densities

or intensities as proposed until a final development plan is submitted and approved for all or a portion of the area covered by the concept plan. (Adapted from Madison, Wisconsin)

This provision includes two alternatives. If the bracketed language is included, the rezoning and concept plan are approved at the same time. If the bracketed language is omitted, there will have been a prior adoption of a rezoning for a planned unit development district and only the approval of the concept plan will be necessary at this stage. This provision also makes it clear that the concept plan adoption establishes the basic uses, densities, and intensities, but that a final development plan must be approved before the development can go forward.

Preliminary development plan. The development plan is a detailed plan of development equivalent to a site plan and must have enough detail to serve as the regulations that apply to the planned unit development. In some jurisdictions this is known as a regulating plan. If the planned unit development district is an overlay district, the text and map of the development plan must be carefully correlated with the provisions of the underlying district. The development plan must also be detailed enough to provide what is known as an “entitlement,” which is a vesting of the uses, densities, and other elements of the project that are included in the plan. Vesting can be handled through a development agreement or a vesting statute or ordinance, and is discussed below.

The preliminary development plan is preliminary only in that it is the first step in the approval of a plan for the planned unit development. If a concept plan has been approved, the planning commission usually has the responsibility of approving the preliminary development plan. If not, the legislative body approves the preliminary development plan and may approve it at the same time it approves the rezoning for the planned unit development. The second step is the approval of the final development plan, which the planning commission approves if it conforms substantially to the approved preliminary development plan. This is a two-step procedure that is borrowed from the subdivision ordinance. If the planned unit development, like a master planned community, is to be developed in phases, it may be necessary to adopt a

development plan for each phase of the development that implements the project development plan in more detail.

Integration with the subdivision ordinance is another critical issue in the review of the preliminary plan. Subdivision approval requires detailed platting and engineering for streets and other public facilities that may not be possible or desirable at the development plan stage, especially when the development will be built in phases. For this reason, most ordinances do not require planned unit development plans to have this information, and coordination with subdivision approval is necessary.

For all these reasons, the preliminary development plan is a critical document. It must include, in detail, information on all of

requirement that adequate public facilities be available. These may be handled by separate ordinances or may be specified in the planned unit development ordinance. In either case, the preliminary development plan should contain information about these programs if they apply.

Master development plan followed by site plan. The preliminary development plan, once approved, is followed by a final development plan that is approved if it is in substantial compliance with the preliminary development plan. For large developments, such as master planned communities that will be developed in phases, it is necessary to provide for a master development plan followed by more detailed site plans for each stage. This technique substitutes the master devel-



All photos by Daniel Mandelker

➡ The mixed use area of The Glen, a planned unit development (PUD) in Glenview, Illinois, that was planned by the city—not a developer—on a former naval base. PUD as a land-use concept began in the 1950s and 1960s. Simply put, a PUD is a development project a municipality



the requirements in the planned unit development ordinance. It must also include information on requirements included in other ordinances, such as a landscaping ordinance, if this ordinance is the basis for landscaping in planned unit developments. Once approved, it becomes the regulatory plan for the development.

The ordinance may include other requirements, such as an affordable housing jobs/housing balance, for which information should be included in the preliminary development plan. There may also be other programs that apply to planned unit developments, such as a transfer of development rights program for natural resource areas, or a

development plan for a concept plan, and splits project details between the master development plan and site plans. They take the place of a final development plan for the entire project, and are approved if they are in substantial compliance with the master development plan.

The specific plan. Arizona and California authorize by statute the adoption of a “specific plan” that many communities use as a substitute for a project development plan. In California, the specific plan and other zoning actions for planned unit developments must also go through the environmental review procedures required by the California Environmental Quality Act.

Some municipalities where specific plans are authorized have regulations providing for the preparation and adoption of a specific plan for planned unit developments. Since the specific plan is the equivalent of the development plan, the ordinance can provide that uses, site development requirements, and densities are governed by the specific plan.

PROCEDURES FOR THE REVIEW OF DEVELOPMENT PLAN APPLICATIONS

Under some ordinances the legislative body adopts a rezoning for a planned unit development district and also approves the development plan, either at the time of rezoning or later. Alternatively, the decision whether to approve the development plan is usually given to the planning commission. This deci-

The completeness determination. The ordinance should contain a requirement for a completeness determination so that the local government at some point must accept an application as complete, and so the applicant will be given direction on what is required if the application is rejected as incomplete. A completeness requirement is especially important for planned unit developments, which may need to meet complex regulatory requirements.

Notice and hearing. A decision on a planned unit development application is made following a record hearing held after published notice. There may be a statement in the notice that a record hearing will be held, for example. The hearing notice may also do the following:

no cost at least [seven] days prior to the record hearing, and will be provided at actual cost.

Findings and decision. Adequate findings are very important, especially for a development that can be as complex as a planned unit development.

The planned unit development ordinance can also state what action an applicant must take if an application for a planned unit development permit is conditionally approved:

If an application for the approval of a preliminary development plan is conditionally approved, the applicant shall have 90 days from the date of planning commission action granting conditional approval to submit a revised application to the planning staff. If the planning staff determines that the revised application complies with the conditional approval, it shall forward it to the planning commission for a public hearing.

Time limits. A requirement for timely decisions as well as the requirement for a completeness decision should minimize the delays that can occur in decision making and that can create difficulties in the approval process for planned unit developments.

Final development plan. Once the preliminary development plan is approved, the applicant will submit a final development plan to the planning commission for approval. The purpose of reviewing the final plan is to ensure it includes all the approved elements of the preliminary development plan, and that no substantial changes have been made. Approval can be by the planning commission unless there have been substantial changes, which the ordinance can spell out. A public hearing is required on the approval of the final plan, and is also required if a revised final development plan is submitted after disapproval.

The jurisdiction can issue building permits and a certificate of occupancy once it approves the final development plan.

Coordination with subdivision regulations. If a planned unit development requires the subdivision of land, which is likely in many instances, it will also require review under the subdivision ordinance. Coordinating these reviews can be difficult. Coordination at the concept plan stage is not possible because the concept plan does not include enough detail to allow a review of compliance with the subdivision ordinance. Coordination is also difficult even at the preliminary development plan stage because



considers comprehensively at one time, usually during the zoning process used to approve a development plan. PUDs were at first primarily residential. Most conventional zoning ordinances do not allow single-family, multifamily, and nonresidential uses in the same zoning district.

sion is made in a quasi-judicial process that requires a noticed public hearing, findings of fact, and a written decision. Because a review process of this type is needed for all development applications, its inclusion elsewhere in the zoning ordinance is preferable, and the planned unit development ordinance can cross-reference to it. If the local government has a unified development code that includes a provision for planned unit developments, the review process will be part of that code. Some planned unit development ordinances contain their own review procedures for development plan applications, and this section discusses the elements that should be part of those procedures.

- List the land development regulations and goals, policies, and guidelines of the local comprehensive plan that apply to the application.
- State that a failure to raise an issue at a record hearing—in person, or by letter—or the failure to provide statements or evidence sufficient to afford the local government an opportunity to respond to the issue precludes an appeal to the appeals board based on that issue, unless the issue could not have been reasonably known by any party to the record hearing at the time of the record hearing.
- State that a copy of any staff reports on the application will be available for inspection at

All planned unit development districts should be recorded on the zoning map, and all documents associated with the planned unit development, including the development plan, should be filed with a recordkeeping office in the land-use agency. These documents should include agreements with other public agencies, such as the highway agency, which may not be part of the public record for the planned unit development. Computer and GIS programs can be installed that can organize and maintain these documents. Staff must, however, provide overview and supervision if this system of monitoring is to be effective.

The following is an outline of a possible recordkeeping:

- ◆ **Assign** each planned unit development a planning case number, create a project file, and place any documents relating to the development in that file.
- ◆ **Record** all planned unit development districts on the zoning map.
- ◆ **File** all documents associated with the planned unit development in a public recordkeeping office in the land-use agency
- ◆ **Record**, to the extent possible, the final development plan and any associated documents, such as subdivision plat and common open space documents, with the recorder's office so they will show up in the chain of title.
- ◆ **Consider** site plan review for developments within the planned unit development as they occur.
- ◆ **Monitor** development of the project and do inspections through building, grading, and other permits for compliance with the development plan and other requirements.
- ◆ **Install** a computer program to keep track of project development and relate it to building permits.

this plan does not usually include the engineering details for streets and other facilities that are required by the subdivision ordinance. Many developers prefer not to provide these details at this stage, and prefer to deal with subdivision issues at a later stage under the subdivision ordinance. Engineering plans of this kind are expensive to produce, and there may not be enough commitment to the project even at the preliminary development plan approval stage to justify their preparation.

DEVELOPMENT AGREEMENTS

It is common in many areas for local governments to execute development agreements with developers of planned unit developments, especially for master planned communities. There are a number of reasons for doing this. One of the most important is that, unlike a rezoning ordinance or a development plan, a development agreement establishes obligations that cannot be modified unless the agreement authorizes this. Another is that the agreement can give the developer an entitlement, or a vested right, to complete the development under the land-use regulations in effect at the time the development plan was approved. Subsequent changes in the regulations would not apply. The agreement can also establish other obligations, including developer exactions, allowable uses and other project elements, the formation of special districts to finance infrastructure, and the preservation of natural resources. A development agreement can be long—60 to 70 pages or more. Coordination with provisions in the

development plan and with conditions attached to the rezoning, if any, is necessary.

DEVELOPMENT PLAN AMENDMENTS

Change is inevitable, and one of the most important issues in the drafting of ordinances for planned unit developments is to provide

authority for the amendment of development plans. Changes in the market, or changes in the developer's objectives for the development, can require changes in an approved plan. Change can also occur because neighbors or residents who move in early in the project may object to nonresidential development that was in the plan from the beginning but which they believe is not compatible with their residential living environment.

A restrictive approach to amendments would limit them only to unforeseen circumstances. This type of provision does not allow for changes required by proposals to modify the development. The usual approach for an ordinance that authorizes this kind of change is to distinguish between major changes, which require new legislative action, and minor changes that do not. An ordinance can simply state that a change is major if it is "substantial," or it can provide a list of changes and indicate which are substantial and which are not. A detailed listing is preferable because it removes the need to exercise discretion on what is and what is not "substantial," and provides predictability on what can and cannot be changed and how such determinations will be made. Minor changes can be approved administratively by the planning director and staff, or they can be approved by the planning commission. If approval is required by the planning commission, an application should be required but the completeness, notice, hearing, and decision procedures need not apply. Chapter 10 of the *Legislative Guidebook* has a provision in for administrative review without a record hearing that can be used for these decisions.



Daniel Mandelker

➞ The Boulevard development in St. Louis, Missouri. Developments like this can be done as of right in many communities. Placing PUDs on infill sites such as this means the community can establish design requirements in its land-use regulations for the area.

Changes in permitted uses and in the density and intensity of use are obvious candidates for inclusion in a list of changes that should be listed as major, though any element in the development plan that is essential to the character of the planned unit development should be included, such as open space, traffic and pedestrian circulation systems, design elements, and the jobs/housing ratio, if one is included.

FAILURE TO DEVELOP AND ZONING REVERTER

Problems will arise if the planned unit development is not developed, or if development begins and is not completed. It is not typical to require a developer to provide bond or security to guarantee completion of a development, though some communities have adopted requirements of this type. To deal with this problem, the ordinance usually includes a period of time during which the development must be completed, either for the entire development or for each phase if development is to be in phases. The ordinance may then require the reversion of the zoning for the planned unit development zoning to its original zoning if the planned unit development is not completed during the designated time period.

Many ordinances provide for a reverter to the original zoning without an additional hearing and action by the legislative body, but this procedure is doubtful. Most courts hold that an automatic reverter clause of this type is invalid. An ordinance should require notice and hearing and a decision by the legislative body on a rezoning as the basis for terminating the zoning for a planned unit development.

CONTROL FOLLOWING COMPLETION

Once a planned unit development has been completed, any land use or additional development should be controlled by the approved development plan. Failure to include this provision may mean the developer can ignore the development plan in its development of the project (see, e.g., *Cherokee County v. Martin*, 559 S.E.2d 138 (Ga. 2002), in which the developer was allowed to build an apartment complex not shown on the plan because the county did not specify compliance with the site plan as a condition of PUD zoning).

SUBDIVISION AND RESALE

Problems of continuing control are created if a planned unit development is subdivided

after the final development plan has been approved, or if all or part of the development is sold or leased. These events may create compliance problems. Subdivision may sever areas of the project that do not, standing alone, comply with the development plan.

It is important in this situation to distinguish between existing and new development. Severing part of a developed project through subdivision, sale, or lease should not create compatibility problems at the new perimeter or other problems because the development plan will still apply. New development is a different matter and needs attention in the ordinance. The density of new development in the severed area, for exam-

The approval of numerous planned unit developments and master planned communities can create serious recordkeeping problems, making the monitoring and enforcement of the PUD ordinance difficult.

ple, must not be allowed to increase the density authorized for the entire development. Nor should it result in a decrease in common open space or preserved natural resource areas.

Part of this problem can be handled in the subdivision ordinance, which can require subdivision approval for the resubdivision of a planned unit development, or its resale or lease if this creates a new subdivision. This ordinance can also provide that the planning commission shall not approve a resubdivided, sold, or leased parcel meets all of the requirements of the ordinance and complies with the development plan, but this restriction may not be practicable in many instances.

Another alternative is to make the final development plan the controlling document for the entire project, including any resubdivided, sold, or leased parcel.

CONCLUSION

More than 20 percent of all homes in this country are built by the nation's top 10 builders. This is an amazing statistic. It highlights a growing concentration in the home building industry that is changing the shape of land development because large builders build at a large scale. Planned unit developments and master planned communities now make up the largest share of new development in many suburban areas and contribute to the growing demand for infill development in urban centers. In California alone, one law firm had 204,000 units of housing approved in PUDs and master planned community projects when interviewed for this report. These trends call for a new look at PUDs and master planned communities as a zoning strategy.

The mixed use area of The Glen, a planned unit development in Glenview, Illinois, sited on a former naval base. Photo by Daniel Mandelker.

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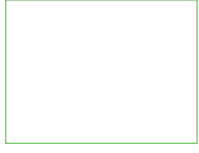
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ZONING PRACTICE
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DOES YOUR PUD ORDINANCE
ALLOW FOR DISCRETIONARY
REVIEW?

6





PHOTOS BY CAROLYN TORMA

PUDs and Master Planned Communities

PLANNING TOOLS

A MODERN ZONING CODE INCLUDES AN OFTEN COMPLEX array of standards and processes. These include use, setback, building height, and coverage requirements for zoning districts, with more progressive codes featuring building and site design standards. A development that complies with these standards can be approved “by right” or through a discretionary process such as a conditional use permit. These can work well for individual lots where the development can feasibly integrate the standards, and variance processes can allow exceptions where the standards create an individual hardship. The trend in modern codes is to expand the range of by-right approvals, with development outcomes described with precise detail.

But what about projects that break the mold? What if an applicant has a better idea? What about large, integrated developments where the community’s zoning (or even form-based) rules don’t work—but that achieve other, important comprehensive planning policies? Many communities have an option for planned unit developments that allow for a negotiated approval process.

The Glen is a PUD developed by the village of Glenview, Illinois, on the site of a former naval air base. It incorporates a mix of housing, recreation, and commercial uses.

Why do communities have PUDs?

PUDs emerged from the desire for developers of master planned communities to avoid the cookie-cutter metrics of conventional zoning. Relief from rigid use, setback, height, parking, and similar restrictions would open communities to more creative master planning. Accordingly, communities developed PUDs to negotiate development approvals with very general, flexible standards. The result was a design outcome produced by negotiations between the applicant and the community, rather than the strict limits of zoning.

These negotiated development approvals were thought to yield the following benefits.

FLEXIBILITY. By negotiating alternative standards, applicants may calibrate their projects more closely to current market conditions, financing demands, topography, and their development program than the existing zoning standards—which may have been written years ago.

COMPATIBILITY. A better designed project is likely to provide a better fit for the neighborhood, with standards suited to current conditions rather than an outdated code.

INTEGRATION. PUDs often allow the negotiation of all facets of a development, from permitted uses to site design to infrastructure. This can ensure that buildings, sites, and streets are integrated, creating a more successful outcome from both a community design and market perspective.

Of course, another cure for many of the issues mentioned above is to update the development code. Putting good, plan- and market-friendly standards in place can obviate the need to negotiate better developments. Form-based codes can effectively integrate lot, building, and site design

with infrastructure. Modern building, site, landscaping, and sustainable development standards can answer many questions about development parameters without resorting to lengthy negotiations.

How are PUDs codified, approved, and enforced?

PUDs are often codified as a separate zoning district, and approval requires rezoning. In most states, this is a legislative decision. If the decision is quasi-judicial, it requires standards—albeit very general ones. Typical standards may include “compatibility with the surrounding area,” “harmony with neighborhood character,” and that “streets are suitable and adequate to carry anticipated traffic. . . .” Some communities also require that exceptions granted through the PUD process are offset by the project’s design and amenities.

Some communities also codify PUDs as a form of discretionary approval, such as a conditional use permit. In states where rezoning is considered legislative, this gives property owners some protection in court if the decision-making body acts in an arbitrary manner. But it offers little advantage in terms of the cost, certainty, or timing of the development approval process.

PUDs are often enforced through staged development approvals (typical of master planned development), zoning con-

ditions followed by traditional enforcement mechanisms, or development agreements. Development agreements are an increasingly popular tool, locking in the developer’s rights on a long-term basis while giving communities contractual remedies that are not available through traditional zoning enforcement.

What are the problems with PUDs?

PUDs are, almost by definition, the exception rather than the rule. Unfortunately, for many communities, PUD approval is the norm.

This can tie up planning commissions, legislative bodies (such as city councils and county commissions), staff, and the general public in endless negotiations. This reduces certainty in the approval process, drives up development costs, and absorbs an inordinate amount of staff time. It also diverts legislative bodies from legislation and planning commissions from planning, involving them in administration. Legislative officials often respond to the immediate gripes of surrounding neighborhoods (i.e., their voters) rather than long-range, comprehensive planning goals. While the PUD projects often demonstrate a high level of design quality, this could come at a cost—from increased expenses to the failure of good projects that die the death of a thousand cuts.

If this scenario doesn’t sound like good planning to you, there are ways to tame the PUD process. First, update your zoning code. Clear, workable standards are usually a better alternative for all parties than the uncertainty of negotiation. Second, build conditions that are routinely negotiated into the development standards. Finally, clarify in the PUD standards or findings that the PUD is only available when the other standards cannot work for the development—assuming that the existing standards reflect best practices for the community.

Use PUDs with caution

PUDs are a useful tool to process unusual or large developments, and can even produce better design outcomes than traditional zoning standards. However, there are better tools for communities to provide desired outcomes—such as performance- or form-based zoning. Even with a well-designed code, there is always room for unusual developments—those that provide offsetting public benefits and creative master planning. PUDs can also bridge the transition from an old to a new code. In their proper context they are a useful—but costly—tool.

— Mark White, AICP

White is a principal in the firm of White & Smith, LLC, Planning and Law Group.



The Glen, in Glenview, Illinois, planned in the mid-1990s, provides both single-family homes and multifamily housing.



TUPUNGATO/ISTOCK/Thinkstock

The New York City Department of Transportation's capital streets projects plan has created pedestrian-friendly plazas and improved bike lanes on streets.

The Planning Commission's Contribution to the Capital Improvement Plan

BEST PRACTICES

AN OFTEN OVERLOOKED, BUT USEFUL, TOOL FOR PLANNING commissions is the capital improvement plan. What are these plans and how do they relate to the planning commission? The website of the National Capital Planning Commission, the planning agency for the Washington, D.C. area, says, "Capital improvement plans provide a link between the visions articulated by comprehensive plans and annual capital expenditure budgets. They allow for a systematic, simultaneous evaluation of potential projects. They also facilitate coordination among the units of government that are responsible for project implementation." Concord, North Carolina, defines the CIP in the following manner: "The purpose of the Capital Improvement Plan (CIP) is to forecast and match projected revenues and capital needs over a (5)-year period. Long range capital planning is an important management tool that strengthens the linkages between community infrastructure needs and the financial capacity of the City."

The CIP is one important means of linking plans to budget and implementation. By participating in the CIP process, the planning commission can provide valuable advice to elected officials on which projects further sound planning in the community. Planning staff can facilitate the engagement of the commission as they often participate with

the municipal manager and finance and engineering staff as part of the preparation team. All municipal departments are asked to contribute to the plan with requests for funding.

It is important to note that the CIP focuses on major projects planned for a three- to six-year span, the sources of revenue for funding, and the annual expected expenditure. The CIP is not an annual budget of recurring expenses, such as running the community library. Examples of projects in the CIP might include construction of a new sewage plant, acquisition and development of a new park, or major street reconstruction. Infrastructure is often a major focus of the CIP.

The late Terry Holzheimer, FAICP, wrote in the April 2010 issue of *PAS QuickNotes* that best practices include “an economic analysis of the fiscal impact of new investments, including the life cycle costs of maintenance. . . .” He suggested that communities should have a set of adopted facilities standards and a comprehensive public facilities plan that will guide the short-term CIP.

Elected officials use the CIP to announce new development projects to the community. Holzheimer clarified that the CIP “is often required by law and usually involves a relatively formal process of public hearings and adoption by the local governing body. Many states provide a handbook for preparing a CIP in the context of specific state statutes.”

Stuart Meck, FAICP, described how the CIP is funded in a 1996 issue of *The Commissioner*. “In the CIP, the local government decides how it is going to finance improvements and how the projects are to be phased. For some improvements, like street resurfacing, the local government may simply set aside an amount from its general fund—an unrestricted fund whose source is local property, sales, and income

taxes and other miscellaneous revenues. . . . Other improvements, like water and sewer lines, may be paid for through enterprise funds, which are supported through utility rates and tap-in fees. . . . In some cases, the local government may decide that it has to sell bonds to pay for the improvements. General obligation bonds are used to fund costly improvements. . . .”

Other revenue sources may include special fund accounts, like park impact fees, infrastructure loan programs, and assessments. Holzheimer described the funding strategy that starts with “projections of annual aggregate costs for facilities and infrastructure as a cash-flow model,” adding that “this should be developed with consideration for population and employment.”

Financing the CIP has become more expensive in recent decades. Therefore, local governments have looked to exactions, fees, and linkage programs, among other strategies, to help fund capital projects.

In reviewing the CIP, the planning commission can assess projects that impact the community’s physical development. This review will always take place within the context of the comprehensive plan.

Once the planning commission and other reviewers have passed along their comments, the city council or other legislative body deliberates. How the body adopts the plan is spelled out in the ordinance; the plan is then manifested as the capital budget. Again, the legislative body works with two budgets, the other being the operating budget.

Questions the planning commission should ask:

- ▶ Does the project appear in the local government’s comprehensive plan?
- ▶ Does the plan include special policies that ensure that new facilities such as civic and recreational centers and libraries are accessible by different modes of transportation . . . or that they carry out certain urban design or architectural themes?
- ▶ Is the project itself well thought out? Have feasibility studies on alternatives been adequate?
- ▶ Do the estimates of the project cost seem realistic based on current contractors’ bids for similar projects in the area?
- ▶ Is the project related to other projects, and is the sequence of construction reasonable?
- ▶ If the project will serve a developing area, such as the addition of new sewer lines, what are the assumptions as to the service levels and the ultimate population of the area?
- ▶ Have all agencies that might be affected by a project been contacted?
- ▶ Is there a good balance between repair and maintenance of facilities in mature neighborhoods versus installations of new improvements in developing areas?
- ▶ In general, is the local government spending enough on capital projects in comparison with annual operating expenses?

(Adapted from Stuart Meck, FAICP, “The CIP: A Planning Commission’s Powerful Tool,” *The Commissioner*, Spring 1996.)

—Carolyn Torma

Torma is APA’s director of education and citizen engagement and editor of *The Commissioner*.



KEN TANNENBAUM/Stock/Thinkstock

Major infrastructure improvements, like this one in New York City, are frequent elements of capital improvement plans.

Fairness in Siting of Nontraditional Housing

LAW

COMMUNITIES BUILD SPECIAL, NONTRADITIONAL HOUSING to accommodate populations that are not adequately served by traditional housing. Traditional housing most often includes permanent single- and multifamily housing. It can be market-rate or affordable housing, and either rented or owner-occupied. Special nontraditional housing types include emergency shelters, transitional housing, permanent supportive housing, and group homes. These uses are defined by the status of the populations they serve, their physical characteristics, and the type of ancillary social services provided on the premises.

Communities commonly regulate the placement of nontraditional housing types and their attendant social services by imposing a “spacing requirement.” Whether a court will uphold a spacing requirement depends on the type of social service or housing at issue, the types of individuals served by the program or housing, the way in which the requirement is applied in a particular situation, and the laws of the state in which the community is located. When a community imposes a spacing requirement on a use that is protected by the federal Fair Housing Act, the requirement will typically be struck down unless a community can provide strong support and evidence to overcome the FHA’s “reasonable accommodation” requirement.

The federal Fair Housing Act

The Fair Housing Act prohibits making a dwelling “unavailable” to a person because of race, color, national origin, religion, sex, familial status, or disability (42 U.S.C. §§ 3601-3631). The FHA also protects individuals who are recovering from substance abuse, but it does not cover individuals who are engaged in the current illegal use of or addiction to a controlled substance (42 U.S.C. § 3602(h)(1)). Congress has carved out some other exceptions to the FHA, such as owner-occupied homes, religious organizations, and housing for persons 55 and older, but no such exception exists for social service housing providers. Local governments have violated the FHA in a number of ways, including the enactment and administration of zoning requirements that result in the unavailability of applicable “dwellings” to persons in one of the “protected” classes listed above. In instances where a community imposes a spacing requirement on a social service use that qualifies as a “dwelling” under the FHA, and the requirement is so burdensome that it “make[s] a dwelling unavailable” to a protected class of persons, the requirement will be found to be in violation of the FHA.

The FHA defines a “dwelling” as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for the sale or lease for the construction or location thereon of any such building, structure, or portion thereof” (42 U.S.C. § 3602(b)). Unfortunately, a “residence” is not defined by the statute. Courts have concluded that many uses, such as hotels, hospitals, and prisons, do not qualify as “residences” under the FHA. Permanent housing, subject to certain exemptions, always qualifies as a residence. Some nontraditional housing types that include social services, such as permanent supportive housing and group homes, are clearly considered permanent housing to which the FHA applies. Courts are in disagreement as to whether other nontraditional housing types such as emergency shelters and transitional housing qualify as residences. Some courts have broadly construed the FHA to apply to emergency shelters and other social services that generally serve individuals on a transient or temporary basis.

Fair housing and spacing requirements

Despite a community’s best intentions, courts are reluctant to uphold separation requirements between housing types qualifying as “dwellings” under the FHA, including group homes and permanent supportive housing, and sometimes even emergency shelters or

transitional housing. Even if the requirement appears on its face to be nondiscriminatory and intended to be in the best interests of individuals whose housing is subject to the requirement, the court will generally invalidate the requirement.

Three theories of liability exist to establish an FHA violation: (1) disparate treatment (or intentional discrimination); (2) disparate impact (or discriminatory effect); and (3) a failure of a municipality to make a reasonable accommodation.

One way in which communities impose spacing requirements on social services is to require a minimum distance between the social service and some other type of use that is meant to be protected, such as a school or traditional residential uses. This method is generally based on the rationale that the social service use will have an adverse impact on the non-social service use, and thus, the non-social service use should be protected. Without a community’s strong documentation of the potential adverse impacts the social service or nontraditional housing may have on the protected use, this regulation may be considered discriminatory on its face and be invalidated.

A second way in which communities impose spacing requirements on social services is to require a minimum separation between two of the same use, such as a minimum 1,000 foot distance between two group homes. The rationale for this type of separation requirement is twofold. First, similar to the other spacing method, this method may attempt to prevent a concentration of uses that may be adverse to other, non-social service uses. Second, separation requirements may serve to advance the concept of “deinstitutionalization.” By preventing a concentration of a particular class of individuals in one area, such as those with disabilities, separation requirements serve to maximize those individuals’ opportunities for community integration and acceptance. Again, without a strong showing that the separation requirement legitimately serves the best interests of the community, is not intentionally discrimi-

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natory, and does not result in a disparate impact on the population served by the type of housing at issue, this separation requirement will be invalidated.

Communities should thoroughly entertain an applicant's "reasonable accommodation" request made pursuant to the FHA, even instances where the zoning code does not provide for such relief. Where a social service is proposed for a location that does not satisfy a zoning code's minimum distance requirements, typically the only relief available is a variance, special exception, or some other similar type of relief that goes before a community's zoning board and is subject to a public notice and hearing process.

If the social service or nontraditional housing use serves a population that is protected under the FHA and the type of housing is a "dwelling" under the FHA, the community is required to review the reasonable accommodation request according to the FHA. The acceptable burdens of proof and review processes for a reasonable accommodation under the FHA almost never coincide with the notice, hearing, and standards of review provided for a variance, special exception, or the like. In other words, a variance hearing before a zoning board is generally not sufficient "reasonable accommodation" review and may run afoul of a community's obligations under the FHA.

Communities should review the way in which they define and regulate nontraditional housing types within their zoning codes, and should be aware of how the courts in their state and federal districts view the various types of nontraditional housing relative to the FHA. If a community wishes to impose minimum distance requirements on social services and nontraditional housing, they should do so with caution, keeping in mind that the applicant may have a right to a reasonable accommodation under the FHA that supersedes the traditional methods for relief, such as variances and special exceptions.

—Kathleen Farro Ryan

Ryan is an attorney and urban planner with Manley Burke in Cincinnati.



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HISTORY

The Rise of Historic Preservation in America. In a recent speech, President Barack Obama remarked, "The notion of a national monument is interesting because it reminds us that America belongs to all of us—not just some of us."

Ever since the Antiquities Act was signed into law by President Theodore Roosevelt in 1906, nearly every president has used this power to designate vast tracts of land and individual structures with national monument status. While local preservation actions appeared as early as the 1850s in New York State, this was the first time the preservation of our historic sites was recognized as a nationally important issue. This act paved the way for further important preservation legislation including the Organic Act of 1916 and the National Historic Preservation Act of 1966. Pictured here is the African Burial Ground National Monument in New York City, designated in 1993.

—Ben Leitschuh

Leitschuh is APA's education associate.

RESOURCE FINDER

Planned unit developments have often been used to accommodate large developments. With the current availability of form-based codes and other tools, consider whether they are the right choice for your community.

In the Zone: Got a legal question about a PUD or an MPC? Dan Mandelker is the man to see.

Ruth Eckdich Knack, AICP
Planning, July 2007
www.planning.org/planning/2007/jul/inthezone.htm

Planned Unit Developments and Master Planned Communities: Review and Approval Processes

Daniel R. Mandelker, FAICP
Zoning Practice, June 2007
www.planning.org/zoningpractice/2007/pdf/jun.pdf

Planned Unit Developments

Planning Advisory Service Report No.545, 2007
Daniel R. Mandelker, FAICP
www.planning.org/store/product/?ProductCode=BOOK_P545

Understanding Planned Unit Development

PAS QuickNotes, No. 22, 2009
www.planning.org/pas/quicknotes/pdf/QN22.pdf

—Ben Leitschuh

QUICKNOTES

*Planning fundamentals
for public officials and
engaged citizens*

*This PAS QuickNotes was prepared by
APA research staff with contributions
from national planning law experts.*

Understanding Planned Unit Development

A planned unit development (PUD) is a large, integrated development adhering to a comprehensive plan and located on a single tract of land or on two or more tracts of land that may be separated only by a street or other right-of-way. PUD is a form of development that, although conceived decades ago, can be used today to advance a number of important smart growth and sustainability objectives. PUD has a number of distinct advantages over conventional lot-by-lot development. Properly written and administered, PUD can offer a degree of flexibility that allows creativity in land planning, site design, and the protection of environmentally sensitive lands not possible with conventional subdivision and land development practices. Moreover, properly applied, PUD is capable of mixing residential and nonresidential land uses, providing broader housing choices, allowing more compact development, permanently preserving common open space, reducing vehicle trips, and providing pedestrian and bicycle facilities. In exchange for design flexibility, developers are better able to provide amenities and infrastructure improvements, and find it easier to accommodate environmental and scenic attributes.

PUD is particularly useful when applied to large developments approved in phases over a number of years, such as master planned communities. PUDs are typically approved by the local legislative body (city council, board of supervisors, county commissioners) after a comprehensive review and recommendation by the planning board or commission, which normally includes a public hearing. Communities considering adoption of a PUD ordinance should be mindful that while planning boards and commissions are given a good deal of discretionary power in acting on PUDs, appropriate standards are essential. Moreover, a delicate balance must be found between the desire to be flexible in order to take into account unique site characteristics and the need to spell out concrete standards and criteria.

WHY PLANNED UNIT DEVELOPMENT IS POPULAR

PUD has grown increasingly popular, in part because standard subdivision and zoning ordinances have serious limitations. Many older vintage zoning ordinances prohibit mixed use. Single family, multifamily, and nonresidential uses are often not allowed in the same zoning district. Older conventional ordinances also contain uniform site development standards that tend to produce monotonous outcomes. Subdivision control ordinances deal with narrow concerns, such as street, curb, and sidewalk standards and lot and block layout. The lack of meaningful amounts of well-placed, accessible open space and recreational amenities is another shortfall of conventional development controls.

TYPES OF PLANNED UNIT DEVELOPMENT

Planned unit developments can take many forms, ranging from modest residential developments where housing units are clustered and open space is provided, to mixed use master planned communities that cover thousands of acres.

Simple Residential Cluster. Simple cluster subdivisions allow smaller lots on some parts of the site in exchange for permanently preserved common open space elsewhere on the site. Planning boards or commissions normally require the open space to be configured in a manner to protect sensitive natural features such as streams and riparian areas, vernal pools, ponds, and lakes, and to take into account hazard areas and areas of steep slope.

Communities may either limit the gross density of the tract to what would be permitted under conventional zoning, or may choose to offer a density bonus allowing more units than would other-

Matt Green



Showcasing a 120-acre regional multi-purpose public park, pedestrian-friendly design, and a 1500+ acre wetland system, the Buckwalter PUD and the Buckwalter Place urban center in Bluffton, South Carolina promote multiple aspects of sustainable development.



American Planning Association

Making Great Communities Happen

wise be allowed. By allowing a bonus, the community can require a greater percentage of the tract as common open space. Theoretically, communities can choose to allow any residential type (or combination of types) on a parcel in the cluster plan—single-family houses, attached houses, town houses, garden apartments, or high rises. As a practical matter, however, cluster subdivisions are developed mostly for single-family homes on individual lots.

Mixed Uses. PUD builds on the simple residential cluster idea by allowing nonresidential uses, often at higher densities. Retail and service establishments, restaurants, schools, libraries, churches, recreation facilities, offices, and even industrial uses can be included in PUDs. Downtown or village center development with apartments above shops and live-work arrangements are also possible. The extreme case is the master planned community, which usually involves substantial acreage and combines employment, office, retail, and entertainment centers with associated self-contained neighborhoods. This can include diverse housing types as well as retail, entertainment and office centers.

WHICH ORDINANCE, WHICH AGENCY?

Individual state planning statutes control how communities handle the deliberative process leading to a decision about a PUD. In most states a PUD provision can be made part of the zoning ordinance or it may be written as a stand-alone ordinance. In either case, the decision to approve, approve with conditions, or disapprove a PUD falls to the legislative branch of local government. Some communities permit a PUD through a discretionary review process, such as a conditional or special use permit. These permits can be approved by the legislative body, planning commission, or board of adjustment, depending on the state enabling legislation and local policies. Some communities provide for the administrative approval of mixed use developments that normally require a discretionary PUD process.

The zoning ordinance is the most appropriate place to locate planned unit development regulations. Basic legislative decisions on use and density are normally the responsibility of the legislative body. Street design and infrastructure could also be resolved through PUD approval, though these considerations are normally built into a unified development ordinance. Decisions about plan details can be left to the planning board or commission and planning staff.

ZONING FOR PUD

Communities face a number of questions when deciding how to fit planned unit development regulations into their zoning ordinances. One alternative is to provide for planned unit development as-of-right. Under this guideline the ordinance would specify the requirements for a planned unit development, and discretionary review and approval procedures would not be necessary.

Stand-alone PUD ordinances are now fairly common. Although there are variations, a typical ordinance will include a purpose clause; a statement of the type or types of PUD that are authorized; zoning procedures; and standards for approval. The ordinance may contain definitions.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

Consistency with the comprehensive plan should be required, especially if the PUD has a major effect on growth and development in the community and on public facilities. This will be true of master planned communities. Many statutes now require zoning to be consistent with a comprehensive plan, and consistency can be required by ordinance even if there is no statutory mandate. □

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Sec. 8.1 General

8.1.1 Purpose

These regulations are intended to promote and enhance the public health, safety and welfare by providing comprehensive regulations and requirements for unified planning and development of tracts of land held in common ownership or control. In considering petitions for concept plan approval, the Town Council shall consider the extent to which the concept plan for the planned development fulfills the following objectives:

- A. To promote a harmonious mixture of land uses and housing types and housing cost which will allow people to work and shop in the neighborhood in which they live.
- B. To encourage creative and innovative design to complement and enhance the town's visual character.
- C. To ensure adequate provision and efficient use of open space and recreational facilities.
- D. To provide for the enhancement and preservation of property with unique features such as historic significance, sensitive environmental resources and scenic qualities.
- E. To promote good transportation design to minimize new traffic generation and separate pedestrian, bicycle, local residential and through motor vehicle traffic.
- F. To reduce public utility maintenance costs by encouraging efficient land use patterns.
- G. To promote energy-conserving buildings and site designs and land use patterns.

- H. To implement relevant provisions of the November 15, 1982 annexation agreement between the town and Loudoun County.

8.1.2 Applicability

The provisions of this article apply to Planned Development Districts approved by the Town Council for planned residential neighborhoods; planned residential communities; and planned employment centers (all called “planned developments” in this article).

Sec. 8.2 Procedures

Planned Development Districts shall be established in accordance with the Zoning Map Amendment procedures of Sec. 3.2 as supplemented by the following standards and procedures:

8.2.1 Concept Plan

- A. **Required.** A concept plan of the proposed development shall be submitted for staff review at the time of the required pre-application meeting.
- B. **Submittal Requirements.** Twenty (20) copies, or other number as determined by the Land Development Official, of a concept plan, drawn to a scale of 1 inch = 100 feet, or a scale agreed to by the town, including a map of the property and land area within 200 feet showing the following features:
 - 1. the general location and arrangement of proposed uses, including open space and recreational uses;
 - 2. the general alignment of major arterials or primary thoroughfares; minor arterials or major thoroughfares; and through collector roads; general alignment of pedestrian ways;
 - 3. the location of sensitive and critical environmental features as defined in the *Town Plan* (steep slopes and floodplains);
 - 4. the approximate number of dwellings by type and the approximate floor area of nonresidential uses; and
 - 5. such other information as is necessary and appropriate to show compliance with *Town Plan* policies.
- C. **Staff Review.** All Concept Plan applications shall be reviewed for consistency with the *Town Plan*. If an application is determined to be consistent with the *Town Plan*, the application may move forward to the Planning Commission and Town Council for consideration.

8.2.2 Planned Development (PD) Rezoning Plans

- A. **General.** A PD Rezoning Plan is the detailed site plan for the proposed planned development. A PD Rezoning Plan must cover all of the land area to be included in the planned development. PD Rezoning Plans shall be processed concurrently with PD Zoning Map amendments. The PD Zoning Map Amendment shall be approved simultaneously with the PD Rezoning Plan.

- B. Application Filing.** PD Rezoning Plan applications shall be filed with the Planning and Zoning Department. The required application form must be completed and signed by the applicant and owner(s) of the property. The applicant shall keep this information current at all times during the processing of the application. Upon receipt of an application, the Land Development Official shall acknowledge acceptance or rejection of the application in writing within ten (10) working days from the date of submittal. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment. Once all comments have been received by the Department of Planning and Zoning, comments generated by the reviewing agencies shall be forwarded to the applicant.
- C. Developer's Statement.** Each PD Rezoning Plan application shall contain a statement by the applicant describing how the proposed development departs from the otherwise applicable (conventional zoning district) standards of this Zoning Ordinance and how the proposed development, on balance, will benefit the town as a whole more than would a development approved under otherwise applicable standards.
- D. Submittal Requirements.** PD Rezoning Plan applications shall include all of the following information:
1. The proposed zoning classification of the planned development, the existing zoning of the subject property and the existing zoning of property adjacent to the subject property.
 2. Proposed maximum numbers and types of dwellings.
 3. Proposed non-residential uses by category.
 4. Proposed maximum floor area of nonresidential buildings by type of use.
 5. Proposed location and types of all uses, including open space.
 6. Proposed public facility sites, areas and locations.
 7. Proposed plan for landscaping all areas showing lawns, greens, tree cover, landscape screens and buffers, including plans for peripheral areas.
 8. Proposed maximum building heights.
 9. Proposed minimum lot areas, depth and width.
 10. Proposed minimum yard requirements, where applicable.
 11. Proposed maximum size, height and number of signs and proposed limitations and requirements on private signs.
 12. A 1:2400 (one inch=200 feet) scale planimetric and topographic map of the property and land area within 200 feet thereof accurately drawn on the Loudoun County photogrammetric base maps and showing the boundary line and other features of the planned development, including the location of sensitive and critical environmental features as defined in the *Town Plan* and the location of all types of uses.
 13. Proposed thoroughfare plan showing the general location and typical sections, excluding pavement design, of major arterials or primary thoroughfares, minor arterials or major thoroughfares, through collector and

local collector roads and the projected ultimate traffic volume and level of service for each.

14. Proposed plan for pedestrian circulation, paths, bikeways and trails.
15. General location of off-street parking and loading facilities and proposed requirements for number, design and maintenance of off-street parking and loading facilities.
16. Proposed limitations and requirements on buildings and land uses including accessory buildings and uses, such as home occupations.
17. Proposed requirements for screening of outdoor nonresidential uses.
18. Deed description and map of survey of the boundary and existing easements made and certified by a state certified land surveyor.
19. Names and mailing addresses of owners of the planned development.
20. Proposed name of the planned development.
21. The names of all abutting subdivisions and the names and mailing addresses of owners of record of abutting property.
22. Location, names and width of existing and proposed streets, parks and other public open spaces within and immediately adjacent to the proposed planned development.
23. All parcels of land and easements (existing or proposed to be dedicated) for public use and the conditions of each dedication.
24. Date, true north point, scale and a key map showing the general location of the proposed planned development.
25. The proposed plan for development phasing indicating the time schedule for submittal of site plans for the planned development.
26. Supporting justification, calculations and documentation to support statements of additional benefit to the public health, safety and welfare that justify additional residential density or floor area ratio of nonresidential buildings under Sec. 8.3.4 and Sec. 8.3.4D.4.
27. Plans, building elevations and architectural details sufficient to show compliance with Sec. 8.2.2F.2.a.
28. **Rezoning Plat.** A rezoning plat, signed and sealed by a certified land surveyor, completed not longer than six (6) months in advance of the date of the application that contains the following information:
 - a. Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each existing and proposed zoning district.
 - b. Total area of the property and of each existing and proposed zoning district presented in square feet and acres.
 - c. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat.
 - d. Location of all existing buildings and structures.

- e. Names and route numbers of all boundary roads or streets, and the width of existing rights-of-way

29. All submittal documents shall be submitted in a format specified by the Town.

30. All plans shall be submitted in a digital format specified by the Town.

E. Zoning Modifications. Changes to applicable zoning regulations shall be subject to the following conditions:

1. The request for zoning modifications shall be processed concurrently with the PD Rezoning or PD Rezoning Amendment.
2. The request for zoning modifications shall include a written justification, supported by scaled graphic illustrations, of how the goals of the Town Plan and applicable sections of the Zoning Ordinance can be better achieved by stating how the modification to the regulation will:
 - a. achieve an innovative design, and
 - b. improve upon the existing regulations;
 - c. exceed the public purpose of the existing regulation.
3. Zoning Modifications shall be subject to the following approval criteria:
 - a. No modification will be granted for the primary purpose of achieving the maximum density on a site.
 - b. No modification shall be granted unless an innovative design or more compatible arrangement of uses is achieved.
 - c. No modifications shall be permitted which include the addition of uses not identified in the applicable PD permitted use table.
 - d. A modification of required use ratios may be approved, where:
 - i. Occupancy permits have been issued for at least 75% of the permitted nonresidential density in the Town Rezoning Ordinance approving the PRC District, as set forth on the approved rezoning concept plan, may occur as a result of the modification.
 - ii. No more than a 10% decrease in the nonresidential density in the Town Rezoning Ordinance approving the PRC District and any other concurrently approved Zoning District, as set forth on the approved rezoning concept plan, may occur as a result of the modification.
 - iii. No more than a 15% increase in the residential density in the Town Rezoning Ordinance approving the PRC District as set forth on the approved rezoning concept plan may occur as a result of the modification.

F. PD Rezoning Plan Approval Criteria.

1. No PD Rezoning Plan shall be considered unless the Town Council first approves the concept plan and finds the proposed planned development promotes the public health, safety and welfare. To this end an applicant for approval of a planned development shall show and the Town Council shall find that a proposed planned development:

- a. Is in conformity with the *Town Plan*.
 - b. Achieves the purposes of Sec. 1.5 and Sec. 8.1.1 as well as or better than would development under other zoning district regulations.
 - c. Could not be accomplished through other methods, such as variances or rezoning to a conventional zoning district.
 - d. Is compatible with the surrounding neighborhood.
 - e. Mitigates conflicts of use with adverse impacts on existing and planned development.
 - f. Provides adequate public facilities and amenities.
 - g. Adequately accommodates anticipated motor vehicle traffic volumes, including emergency vehicle access.
 - h. Preserves existing vegetation to the greatest extent possible.
 - i. Mitigates unfavorable topographic and geological conditions.
 - j. Includes appropriate noise attenuation measures.
2. Planned Development Districts shall be characterized by superior architectural treatment and site planning as measured by the following criteria:
- a. Architectural treatment should avoid massive, monolithic and repetitive building types, facades and setbacks.
 - b. Landscaping should increase the visual quality of building design, open space, vehicular and pedestrian areas and screen areas of low visual interest (such as storage and delivery areas) from public view.
 - c. Street and parking systems should contribute to the aesthetic character of the development.
 - d. Signs should be subject to uniform regulations, be compatible with the design and scale of the development and contribute to the visual character of the development.
 - e. Neighborhood retail commercial and office uses where provided should blend architecturally with surrounding residential uses or be appropriately separated by distance, screening or topography.
 - f. Open space, recreation and other public facilities should be integrated with the organizational scheme of the neighborhood and town.
 - g. Pedestrian and bicycle circulation systems should be included to assure safe and convenient access between properties and within the neighborhood.
 - h. Nonresidential uses should be located on arterial or collector streets without creating through traffic in residential areas.
 - i. Site plan should be arranged to maximize the opportunity for privacy and security by residents.

3. Applicant shall provide the following information prior to approval to determine if there are historic and/or archeological resources of local, state or national significance that are worthy of protection on the proposed site:
 - a. Structures, any portion of which was constructed prior to 1940, located on any portion of land designated within the Planned Development District, require an Intensive Level architectural survey conducted in accordance with State Historic Preservation Office (SHPO) survey standards by an individual or firm that meets the professional qualification standards set forth in 36 CFR 61, Appendix A to evaluate the structure and the site for its local, state, or national significance as an individual resource or as a district using:
 - i. The National Register Criteria for Evaluation listed in 36 CFR 60.4; and
 - ii. The Criteria for Designation listed under Section 7.5.10.B.1 of the Zoning Ordinance
 - b. For Planned Development Districts a Phase I archeological survey shall be conducted in accordance with SHPO standards by an individual or firm that meets the professional qualification standards set forth in 36 CFR 61, Appendix A.
 - c. A letter from the State Historic Preservation Office concurring with the evaluation listed in “b” above.

- G. **Effect of PD Rezoning Plan Approval.** PD Rezoning Plans shall be processed concurrently with PD Zoning Map amendments. An approved PD Rezoning Plan shall constitute the minimum standards for development within the PD District.

8.2.3 Planned Development Zoning Map Amendment

- A. **General.** Final zoning approval for a Planned Development comes in the form of a Zoning Map Amendment, rezoning the subject property to the applicable Planned Development District. PD Zoning Map Amendment application shall be processed in accordance with the procedures of Sec. 3.3. PD Zoning Map Amendments shall be processed concurrently with PD Rezoning Plans. The PD Zoning Map Amendment shall be approved simultaneously with the PD Rezoning Plan.
- B. **Approval Requirements.** An ordinance approving a Planned Development Zoning Map Amendment shall describe the tract of land within the zone by metes and bounds or survey plat prepared by a certified land surveyor or registered professional engineer and incorporate or include by reference writings, maps or other documents showing the following:
 1. Maximum numbers and types of dwellings.
 2. Nonresidential uses by category.
 3. Maximum floor area of nonresidential space.
 4. Locations and general character of all uses.
 5. Locations and the character and plan for improvement of public facility sites.

6. Plan for landscaping showing lawns, greens, tree cover, landscape screens and buffers.
7. Maximum building height limitations.
8. Minimum lot area, depth and width requirements.
9. Minimum yard requirements, where applicable.
10. Maximum size, height and numbers of signs and proposed limitations and requirements on private signs.
11. Thoroughfare plan showing the location and typical cross sections, excluding pavement design of major arterials or primary thoroughfares, minor arterials or major thoroughfares, through collector and local collector roads.
12. Plan for pedestrian circulation, paths, bikeways, and trails.
13. Location of off-street parking and loading facilities and proposed limitations and requirements on construction and maintenance of off-street parking and loading facilities.
14. Approved proffers submitted under this Zoning Ordinance.
15. Limitations and requirements on buildings and uses, including accessory buildings and uses, such as home occupations.
16. Name of the planned development.
17. General location and size of parcels of land and easements to be dedicated for public use and the conditions of each dedication.
18. Planned Development District designation for the planned development (PRN, PRC, PEC).
19. A Phasing plan that identifies the stages of development build-out. The phasing plan shall identify the sequence of development for all proposed land uses. It shall include information regarding the timing of required plan submittals and plans for the phasing of internal and external traffic circulation systems, amenities, and utility improvements that will be constructed to support the proposed development. The phasing plan shall also indicate the expected impact of the development on existing or proposed public facilities, including but not limited to, schools, water and sewer systems, transportation facilities and public safety services. The applicant shall provide assurances that all the use categories will be constructed and that the project will, in fact, result in the type of development proposed. The Town Council may require performance guarantees or such other measures, as it deems reasonable and necessary to assure the proper phasing of development and to assure the provision of public amenities and public facilities upon completion of each phase or upon full development.

- C. Owner Acceptance.** No ordinance approving a Planned Development Zoning Map Amendment shall become effective until the owner of the tract of land involved has signified acceptance and agreement to the terms and conditions of the ordinance, including any proffers.

- D. Ordinance Supersedes.** The ordinance approving a Planned Development Zoning Map Amendment shall supersede all provisions of this Zoning Ordinance to the contrary.
- E. Effect.** The provisions of an ordinance approving a Planned Development Zoning Map Amendment or any proffered conditions made a part thereof shall govern those matters covered in Sec. 8.2.3B. Any changes proposed in an approved planned development shall be by amendment of the ordinance in accordance with procedure provided herein for adoption of such an ordinance, unless the request complies with the criteria of Section 8.2.4 Minor Modifications.

8.2.4 Minor Modifications

A Minor Modification may be approved at the sole discretion of the Land Development Official where it is determined that the following criteria are met:

- A.** Changes are limited to minor layout, design or dimensional modifications in response to issues of topography, drainage, underground utilities, structural safety, vehicular circulation or requirements of government agencies;
- B.** There are no negative impacts to the surrounding properties;
- C.** Modifications shall not include the addition of any structure or addition to any structure in excess of five percent (5%) or 2,500 square feet, whichever is less;
- D.** No new conditions, proffers or amendments are necessary;
- E.** There are no code enforcement complaints or actions pending on the site;
- F.** Proposed changes do not increase intensity of use. Examples include, but are not limited to, increased seats, employees, visitors, customers, vehicle trips or hours of operation;
- G.** Modifications may be requested for:
 - 1. A setback to accommodate healthy existing trees and/or their root zones;
 - 2. Setbacks to accommodate an error in siting;
 - 3. Change to the location of design of buffers, landscape areas or trees provided there is no reduction in plant materials or area;
 - 4. Change or reduction in vehicle loading areas;
 - 5. Reduction in number of parking spaces by an amount not to exceed 10 percent of the spaces required per Section 11.3 (Parking Standards Table).

Sec. 8.3 General Development Standards

8.3.1 Minimum Area of Planned Development Districts

- A.** Planned residential neighborhood (PRN) Districts shall be at least five acres in area unless the Town Council finds a smaller area suitable for a planned residential development by virtue of its unique historic or environmental features or its redevelopment and infill development potential.

- B.** Planned residential community (PRC) Districts shall not be less than 200 acres in area.
- C.** Planned employment center (PEC) Districts shall be at least five acres in area unless the proposed planned development is a logical extension of an existing commercial or employment area.

8.3.2 Lot Size

No planned development shall be approved which contains lots with areas or widths less than provided below for the dwelling types shown:

Dwelling Types	Lot Area	Lot Width
Single-family, detached	6,500 sq. ft. minimum	40 feet minimum;
Single-family, attached (townhouses)	1,600 sq. ft. minimum]	18 feet minimum, interior, 28 feet minimum corner/end lots.
Duplex	8,000 sq. ft.	75 feet
Multi-Family	10,000 square feet	75 feet

8.3.3 Residential Density and Nonresidential Intensity in General

Permitted gross residential density and maximum nonresidential development intensity (FAR) within a planned development shall be determined by applying the respective limits for each to the land area involved on a pro-rata basis. (For example, if on a 100-acre tract, 217,800 square feet of nonresidential floor area is proposed and the floor area is 0.25, 20 acres of the tract are attributable to nonresidential uses and 80 acres could be developed at the applicable residential density limit.)

8.3.4 Planned Development Residential Density Limits

- A. Densities Not to Exceed Town Plan.** Residential density limits shall be as expressed in the *Town Plan*. The lesser of the residential density range numbers established for land use designations in the *Town Plan* represents “base density” allowed within a planned development. The greater of the residential density range numbers established for land use designations in the *Town Plan* represents the “maximum residential density” allowed within a planned development through the provision of additional public benefits. Residential density shall not exceed the base density allowed, unless the Town Council finds that the proposed development offers “additional Development (public) benefits.” No planned development shall be approved which permits a higher density of dwelling units than indicated in the *Town Plan*.
- B. Additional Development (Public) Benefits.** If the Town Council finds that “additional development benefits” will be provided, additional “bonus” density may be approved (above the base density) up to the maximum of the density range allowed by the underlying Town Plan land use designation. In order to approve the additional bonus density, the Town Council, in its sole discretion, must find that the proposed site plan offers additional development benefits to the public health, safety and welfare by providing one or more of the additional development benefits identified in Sec. 8.3.4C.

- C. Criteria for Additional Density.** Upon the Town Council's finding of additional development benefit, the permitted number of residential dwellings in a planned development may be increased, as determined by the Town Council, above the base density up to the maximum residential density of the Town Plan. In acting on requests to exceed the base density of the Town Plan, the Town Council shall consider whether the proposed development offers the following public benefits:
1. Public Facilities. A net positive impact on the availability of public facilities and services in the town.
 2. Open Space. An increase in the supply of usable public open space in the town.
 3. Traditional Design. Design that makes a substantial contribution to the traditional character of the town. Examples include: compact, pedestrian-oriented development patterns; mixed uses; grid street patterns; use of side loading garages; front porches with reduced front building setbacks; and shop-top housing (residential dwelling units above retail and office uses, and traditional architecture and building materials).
 4. Affordable Housing. Dwelling units meeting Virginia Housing Department Authority eligibility criteria.
 5. Elderly Housing. Elderly housing units within 1,320 feet of shopping, personal service and other necessary support services.
 6. Environmental Protection and Community Appearance. Protection of natural resources at a much higher level than otherwise required under existing regulations.
 7. Historic Preservation. Appropriate use of a Town Plan designated historic structure or site, or any other site deemed worthy of preservation due to its historic value.
 8. Mixed-Use. Substantial employment opportunities in close proximity to residential areas and guarantee development of nonresidential portions prior to or concurrently with the residential portions.
- D. Calculation of Density.** The maximum number of dwellings permitted in a planned development shall be calculated by multiplying the applicable Town Plan density limit (expressed in dwellings per acre) by the net acreage of the planned development. The net acreage of a Planned Development shall be calculated by subtracting all of the following from the tract's gross acreage:
1. Acreage devoted to commercial and employment uses.
 2. Acreage devoted to public rights-of-way (including interchanges and major and minor arterials, but not including rights-of-way dedicated as part of the subject development).
 3. Area classified as steep slopes.
 4. Acreage shown as floodplain in the *National Flood Insurance Program Flood Insurance Rate Maps for Loudoun County, Virginia, and Incorporated Areas*, effective date February 14, 2017, based on the *Flood Insurance Study for Loudoun County, Virginia and Incorporated Areas*, published by the Federal Emergency Management Agency (FEMA), effective date February 17, 2017,

or studies prepared by any other party according to town approved procedures.

8.3.5 Planned Development Nonresidential Intensity Limits

- A. Intensities Not to Exceed Town Plan.** Nonresidential intensity limits (Floor Area Ratios) shall be as expressed in the *Town Plan*. The lesser of the floor area ratio range numbers established for land use designations in the *Town Plan* represents “base nonresidential intensity” allowed within a planned development. The greater of the nonresidential intensity range numbers established for land use designations in the *Town Plan* represents the “maximum nonresidential intensity” allowed within a planned development through the provision of additional benefit. Nonresidential intensity shall not exceed the base intensity allowed, unless the Town Council finds that the proposed development offers “additional development benefits.” No planned development shall be approved which permits a higher floor area ratio than indicated in the *Town Plan*.
- B. Additional Development (Public) Benefits.** If the Town Council finds that “additional development (public) benefits” will be provided, additional “bonus” floor area may be approved (above the base floor area ratio) up to the maximum of the intensity range allowed by the underlying land use designation. In order to approve the additional bonus floor area, the Town Council, in its sole discretion, must find that the proposed site plan offers additional development benefits to the public health, safety and welfare by providing one or more of the additional development benefits identified in Sec. 8.3.4C.
- C. Criteria for Additional Floor Area.** Upon the Town Council’s finding of additional development benefit, the permitted floor area in a planned development may be increased, as determined by the Town Council, above the base floor area up to the maximum floor area allowed for the underlying land use designation by the Town Plan. In acting on requests to exceed the base nonresidential intensity of the Town Plan, the Town Council shall consider whether the proposed project offers the following public benefits:
1. Open Space. An increase in the supply of usable public open space in the town.
 2. Innovative Design. A substantial contribution to the character of the town. Examples of innovative design include: siting for solar access, development reflecting character of surrounding area, superior provision of open space and landscaping, and superior use of building materials and design
 3. Public Facilities. A net positive impact on the availability of public facilities and services in the town.
 4. Environmental Protection and Community Appearance. Protection of natural resources at a much higher level than otherwise required under existing regulations.
 5. Historic Preservation. Appropriate use of a Town Plan designated historic structure or site, any other site deemed worthy of preservation due to its historic value.

- 6. **Mixed-Use.** Substantial employment opportunities in close proximity to residential areas and guarantees development of nonresidential portions prior to or concurrently with the residential portions.
- D. **Calculation of Floor Area Ratio.** For the purposes of Floor Area Ratio calculation in a Planned Development District, the lot area devoted to residential uses shall not be included when determining the total lot area.
- E. **Maximum F.A.R.** No new buildings shall be permitted to be erected which, either individually or in combination with other buildings, exceed the applicable maximum floor area ratio (FAR) specified in the Town Plan for the lot for the non-residential use upon which such buildings are to be located.

8.3.6 Management of Common Open Space and Improvements

The regulations below shall apply to all common open space and improvements, including all private accessways, driveways, parking lots, uses, facilities and buildings provided in a planned residential development. All such common lands and improvements shall be established and maintained in accordance with the following requirements:

- A. The developer shall organize a property owner association to ensure the maintenance of common open space and improvements.
- B. Organizations established for this purpose shall meet the following requirements:
 - 1. Organizations shall be established prior to the sale of any lots.
 - 2. All persons having ownership of property within the development shall have membership rights in those organizations.
 - 3. Organizations shall own and manage all common open space and improvements.
 - 4. All lands and improvements shall be described as to locations, size, use and control in the declaration of covenants, conditions and restrictions. This declaration shall set forth the method of assessment for maintenance of common land and improvements. Covenants, conditions and restrictions shall run with the land and be in full force and effect for at least twenty years and shall be automatically extended for successive ten year periods unless terminated in accordance with this section.
 - 5. Organizations shall not be dissolved nor shall they dispose of any common open space except to an organization established to own and maintain common open space, to the town or to other appropriate governmental agency.
- C. No common open space shall be denuded, defaced nor otherwise disturbed without approval of the Town Council.
- D. All private accessways created in any planned development shall provide guaranteed vehicular and pedestrian access for abutting lot owners and guaranteed access for public vehicles and public service employees.
- E. The declaration shall establish, provide initial funding and provide for adequate reserve funds for the maintenance and care of all lands, streets, facilities and uses under the control of the property owners' organizations.

8.3.7 Requirements for Landscaping in All Planned Developments

The following requirements for landscaping apply in all planned developments:

- A.** Existing tree cover shall be retained to the greatest extent possible and taken fully into account in the design of all features of planned developments.
- B.** New landscaping, including structures and plant materials, shall be provided as appropriate:
 - 1. To prevent soil erosion from wind and water.
 - 2. To reduce glare and noise from traffic.
 - 3. To separate and screen incompatible uses.
 - 4. To shade streets, walkways and parking areas.
 - 5. To provide for the natural recharge of groundwater.
- C.** Applications for PD Rezoning Plan approval shall include a landscape plan drawn to scale of one inch to 100 feet (1:100) for all land to be used for other than single-family detached dwelling lots showing:
 - 1. The proposed extent and location of new plant materials indicated at mature sizes and to include other landscape features.
 - 2. The size of existing plant materials proposed to be used as part of landscaping plan.
 - 3. The proposed treatment of all ground surfaces with paving, turf, gravel or other ground cover.
 - 4. The proposed schedule of plant materials sizes at planting and quantities.
 - 5. The protection of existing trees and preservation of soil aeration, drainage and moisture, and.
 - 6. Slope stability measures for slopes exceeding 3:1 gradient.
- D.** No site Plan or Record Plat shall be approved until the subdivider or developer has furnished to the town a cash deposit, corporate surety bond (in a form approved by the Town Attorney), or other guarantees satisfactory to the Town Council. The amount must be sufficient to cover the estimated costs, as determined by a landscape architect, of installation and construction of all landscaping shown on the approved plat or site plan. The cash deposit, bond or other guarantee shall be conditional upon and guarantee the installation and construction of all landscaping shown on the plans and shall be released upon installation and construction of landscaping in accordance with the plans. The subdivider or developer shall further guarantee the maintenance and replacement, as necessary, of landscaping for two years after installation and shall furnish a cash deposit, corporate surety bond, or other guarantees satisfactory to the Town Council in an amount equal to ten percent of the costs of installation and construction of landscaping shown on the approved plat or site plan. The cash deposit, bond or other guarantees shall be released upon certification by the Zoning Administrator that the required landscaping has been completed and maintained in accordance with the requirements of the bond.

- E. The maintenance and replacement of landscaping shall be the responsibility of lot owners and/or the homeowners association. Plant material shall be tended and maintained in a healthy growing condition, replaced when diseased or dead and kept free of debris. Landscaping structures shall be kept in good repair.

8.3.8 Improvement of Common and Public Open Space

- A. **Schedule for Improvements.** Common and public open space shall be improved by construction of facilities described in the PD Rezoning Plan in accordance with the schedule approved as part of the plan at a rate equivalent to or greater than the rate of construction of dwellings. Except as otherwise expressly provided in this section, no zoning permit shall be issued for any dwelling in a planned development in which common and public open space improvements have not been made as required by the approved proffers, plans and/or schedule.
- B. **Bonding of Improvements.** In the event the subdivider or developer has furnished to the town a cash deposit, corporate surety bond (in a form approved by Town Attorney), or other guarantees satisfactory to the Town Council in an amount sufficient to cover the estimated costs, as determined by the Town Manager, of all uncompleted improvements required on common and public open space, zoning permits may be issued for dwellings in a planned development in which common and public open space improvements have not been completed as required by the approved plans and schedule. The cash deposit, bond or other guarantee shall be conditional upon and guarantee the installation and construction of all common and public open space improvements shown on the plans within two years of the date of acceptance of the bond or other period as determined by the Town Council. The guarantee shall be released upon certification by the Zoning Administrator that the improvements have been completed in accordance with the approved plans and with the requirements of the guarantee.

Sec. 8.4 PRN, Planned Residential Neighborhood District

8.4.1 Purpose

Planned Residential Neighborhood (PRN) Districts are intended to encourage the development of a mixture of housing types and price ranges and to promote the organization of residential development into efficient neighborhood units with appropriate supportive community facilities and services.

8.4.2 Permitted Uses

The following uses are permitted in a PRN District when listed in the ordinance approving the concept plan and establishing the district.

PRN Uses		
Use	Use Standards	Definition
Commercial Uses		
Government Office		
Neighborhood Retail Convenience Center	Sec. 9.3.16	Sec. 18.1.113
Institutional and Community Service Uses		
Cemetery		Sec. 18.1.28

PRN Uses		
Use	Use Standards	Definition
Fire and/or rescue facility		Sec. 18.1.64
Group homes		Sec. 18.1.74
Park, public		
Place of worship		Sec. 18.1.141
Recreation facility	Sec. 9.3.21	Sec. 18.1.156
School, general education		Sec. 18.1.162
School, public		Sec. 18.1.163
Continuing Care Facility	Sec. 9.3.6.1.1	Sec. 18.1.38.1
Residential Uses		
All principal and accessory residential uses		
Utility Uses		
Public Utility, minor		Sec. 18.1.153
Public Utility, major		Sec. 18.154

8.4.3 Special Exception Uses

- A. The following uses are permitted in a PRN District upon application and approval of a Special Exception by the Town Council pursuant to Section 15.2-2204 of the Code of Virginia, 1950, as amended and Sec. 3.4 of this Ordinance:
 1. Similar uses to those included in the ordinance approving the PD Rezoning Plan and establishing the district.
 2. Any use in Sec. 8.4.2 not included in the ordinance approving the PD Rezoning Plan and establishing the district.
- B. The Town Council may approve a special exception when the proposed use will be compatible with existing and planned development in the surrounding neighborhood. In addition, in granting special exception approval, the Town Council may impose conditions, safeguards and restrictions on the proposed use to assure the use is homogeneous with the neighborhood and to secure compliance with this Zoning Ordinance and the ordinance establishing the district. Where this cannot be accomplished, the Town Council shall deny the application as not being in accordance with the *Town Plan* or as being incompatible with permitted uses in the neighborhood.

8.4.4 Residential Density

The maximum number of dwellings within a planned residential neighborhood shall not exceed the maximum described in the ordinance approving the PD Rezoning Plan or the maximum established by Sec. 8.3.4.

8.4.5 Timing of Commercial and Employment Uses

[Repealed 8/10/04 per Ordinance No. 2004-0-8]

8.4.6 Density, Intensity and Dimensional Standards

Lot area, yard, building height regulations shall be as set out in the ordinance establishing the Planned Development District.

8.4.7 Open Space

At least 25 percent (25%) of the land area of a planned residential neighborhood shall be established for public and common open space useable by as well as accessible and in reasonable proximity to all residents or occupants of the planned development. Open space shall be provided and maintained as required by Sec. 8.3.6. Public recreational sites shall be dedicated at a rate of two (2) acres for each one hundred (100) dwelling units.

Recreational areas and facilities such as playgrounds, tennis courts, basketball courts, swimming pools and community buildings shall be provided to meet the anticipated needs of residents and occupants of the planned development. All open space including public recreational facilities, shall be included in the development schedule and be constructed and fully improved by the developer at a rate equivalent or greater than the rate of construction of dwellings. (See Sec. 8.3.8).

8.4.8 Open Space Requirement for “Infill” PRN

A Planned Residential Neighborhood (PRN) located in an area designated in the Town Plan as Downtown shall provide at least fifteen percent (15%) of the land area as public and common open space. In the H-1 Overlay, Old and Historic District this open space requirement can be further reduced by the Land Development Official with the concurrence of the Board of Architectural Review. The Land Development Official shall set forth in writing the reasons for granting such a waiver of the fifteen percent (15%) open space requirement.

Sec. 8.5 PRC, Planned Residential Community District

8.5.1 Purpose

Planned Residential Community (PRC) Districts are intended to promote the development of self-sufficient communities which are organized around a mixed-use center of commercial, employment, community facility and high density residential uses. The intent of the PRC District is to encourage efficient land use patterns which conserve energy and natural resources and provide a variety of living and working environments integrated with adequate open space and recreational facilities.

8.5.2 Permitted Uses

The following uses are permitted in a PRC District when permitted in the ordinance approving the PD Rezoning Plan and establishing the district.

PRC Uses		
Use	Use Standards	Definition
Commercial Uses		
Government office		
Neighborhood retail convenience center	Sec. 9.3.16	Sec. 18.1.113
Mixed Use Center		
Institutional and Community Service Uses		
Cemetery		Sec. 18.1.28
Fire and/or rescue facility		Sec. 18.1.64
Group homes		Sec. 18.1.74

PRC Uses		
Use	Use Standards	Definition
Library		Sec. 18.1.89
Museum		
Nursing home	Sec. 9.3.17	Sec. 18.1.120
Park, public		
Place of worship		Sec. 18.1.141
Recreation facility	Sec. 9.3.21	Sec. 18.1.156
School, general education		Sec. 18.1.162
School, public		Sec. 18.1.163
Continuing Care Facility	Sec. 9.3.6.1.1	Sec. 18.1.38.1
Residential Uses		
All principal and accessory residential uses		
Utility Uses		
Public utility, minor		Sec. 18.1.153
Public utility, major		Sec. 18.1.154

A. Mixed Use Centers

1. Mixed use centers are a cluster of residential, commercial, employment and community facility uses designed to serve as the focus of major residential communities. Uses shall be supportive of and compatible with surrounding residential development. A Mixed Use Center shall contain between 100,000 and 350,000 gross square feet of nonresidential uses. No more than 250,000 square feet of nonresidential uses shall be commercial and the balance shall be office use. In no case shall commercial uses provided exceed office use by a ratio of more than 2.5 to 1. They shall also support the policies and follow the development standards of the plan.
2. Uses shall include neighborhood retail and community retail commercial uses and may also include tourist and specialty retail commercial, office and other appropriate employment uses. The integration of residential uses and community facilities such as community centers, libraries and post offices within mixed use centers is encouraged.
3. Nonresidential uses shall be confined to the first two floors when located in the same building as residential uses. Residential uses shall be provided with separate entrances.
4. The negative effects of employment facilities, such as noise, dust and fumes, shall be completely contained within individual buildings.
5. The transportation system shall not create conflicts between local and regional uses or generate through traffic in residential areas.

8.5.3 Special Exception Uses

The following uses are permitted in a PRC District upon approval of a Special Exception by the Town Council pursuant to Section 15.2-2204 of the Code of Virginia, 1950, as amended and Sec. 3.4 of this Ordinance:

- A. Similar uses to those included in the ordinance approving the PD Rezoning Plan and establishing the district.

- B. Any use in Sec. 8.5.2 when not included in the ordinance approving the PD Rezoning Plan and establishing the district.
- C. The Town Council may approve a special exception when the proposed use will be compatible with existing and planned development in the surrounding neighborhood. In addition, in granting special exception approval, the Town Council may impose conditions, safeguards and restrictions on the proposed use to assure the use being homogeneous with the neighborhood and to secure compliance with this Zoning Ordinance and the ordinance establishing the district. Where this cannot be accomplished, the Town Council shall deny the application as not being in accordance with the *Town Plan* or as being incompatible with permitted uses in the neighborhood.
- D. Power Mount Facilities on Existing Electric Transmission Towers subject to minimum use standards provided in Sec.9.3.26.A Standards Applicable to all Telecommunications Facilities & C. Monopoles and Power Mount Facilities.

8.5.4 Residential Density

The maximum number of dwellings within a planned residential neighborhood shall not exceed the maximum described in the ordinance approving the PD Rezoning Plan or the maximum established by Sec. 8.3.4.

8.5.5 Density, Intensity and Dimensional Standards

Lot area, yard, building height regulations shall be as set out in the ordinance establishing the Planned Development District.

8.5.6 Open Space

At least twenty five percent (25%) of the land area of a planned residential community shall be established for public and common open space usable by as well as accessible and in reasonable proximity to all residents or occupants of the planned development. Open space shall be provided and maintained as required by Sec. 8.3.6. Public recreational sites shall be dedicated at a rate of two (2) acres for each one hundred (100) dwelling units. Recreation areas and facilities, such as playgrounds, tennis courts, basketball courts, swimming pools and community buildings shall be provided to meet the anticipated needs of residents of the planned development. All common open space, including public recreational facilities, shall be included in the development schedule and be constructed and fully improved by the developer at a rate equivalent to or greater than the construction of residential units (see Sec. 8.3.8).

Sec. 8.6 PEC, Planned Employment Center District

8.6.1 Purpose

The Planned Employment Center (PEC) District is intended to encourage innovative and creative design of office and industrial development. The PEC District regulations are designed to promote attractive employment areas which complement surrounding land uses through high quality layout, design and construction techniques.

8.6.2 Permitted Uses

The following principal uses are permitted in a PEC District when permitted in the ordinance approving the PD Rezoning Plan and establishing the district.

PEC Permitted Uses		
Use	Use Standards	Definition
Commercial Uses		
Conference center		Sec. 18.1.37
Data Center	Sec. 9.3.6.2	Sec. 18.1.40.2
Hotel		Sec. 18.1.83
Motel		Sec. 18.1.109
Office (business, professional, or government)		Sec. 18.1.121
Recreational facility	Sec. 9.3.21	Sec. 18.1.156
Research & Development, Production and Warehousing Uses		
Industrial, Flex	Sec. 9.3.11.2	Sec. 18.1.84
Production	Sec. 9.3.22	Sec. 18.1.150.1
Research & Development	Sec. 9.3.22	Sec. 18.1.157
Institutional and Community Service Uses		
Fire and/or rescue facility		Sec. 18.1.64
Group homes		Sec. 18.1.74
Park, public		
Recreation facility	Sec. 9.3.21	Sec. 18.1.156
School, technical		Sec. 18.1.162
School, special instruction		Sec. 18.1.164
Residential Uses		
None		
Utility Uses		
Data Center Electrical Utility Substation		Sec. 18.1.40.3
Public utility, minor		Sec. 18.1.153
Public utility, major		Sec. 18.1.154

8.6.3 Support Uses

The following support uses are permitted in a PEC District when permitted in the ordinance approving the PD Rezoning Plan and establishing the district and when subordinate to principal office or industrial uses:

PEC Support Uses		
Use	Use Standards	Definition
Commercial Uses		
Service Station		Sec. 18.1.169
Business service and supply establishments		
Convenience retail food stores		Sec. 18.1.39
Bank, with drive-in facility		Sec. 18.1.14
Health club or spa		
Parking structure, private		Sec. 18.1.135
Service, personal [1]		Sec. 18.1.168
Pharmacies, retail pharmacies		Sec. 18.1.139
Repair service establishments		

PEC Support Uses		
Use	Use Standards	Definition
Eating Establishment; Eating Establishment, fast food		Sec. 18.1.54, Sec. 18.1.55
Residential Uses		
All principal and accessory residential uses intended as living quarters for employees or owners of establishments within the district if located and designed in a manner appropriate to the character and function of the district.		

[1] Services, Personal shall be permitted by right in any approved PEC District.

8.6.4 Special Exception Uses

The following uses are permitted in a PEC District upon approval of a Special Exception by the Town Council pursuant to Section 15.2-2204 of the Code of Virginia, 1950, as amended and Sec. 3.4 of this Ordinance:

- A. Similar uses to those included in the ordinance approving the PD Rezoning Plan and establishing the district.
- B. Any use in Sec. 8.6.2 when not included in the ordinance approving the PD Rezoning Plan and establishing the district.
- C. The Town Council may approve a special exception when the proposed use will not be incompatible with existing and planned development in the surrounding area. In addition, in granting special exception approval, the Town Council may impose such conditions, safeguards and restrictions on the proposed use to assure the use is homogeneous with the area and to secure compliance with this Zoning Ordinance and the ordinance establishing the district. Where this cannot be accomplished, the Town Council shall deny the application as not being in accordance with the *Town Plan* or as being incompatible with permitted uses in the area.

8.6.5 Use Limitations

The following limitations apply to uses of land in a planned employment center in addition to any limitations provided in the ordinance establishing the district.

- A. **Enclosed Buildings.** All operations shall be conducted within a fully enclosed building unless the Town Council finds that outdoor operations are compatible with the planned employment center.
- B. **Support Principal Uses.** Support uses shall be oriented primarily to the employees and clientele of the principal use with which they are associated.
- C. **Location and Size.** With the exception of those uses set forth in Sec. 8.6.5F, all support uses shall be located in the same building as the principal uses primarily served and shall occupy in combination not more than twenty percent (20%) of the gross floor area of the building.
- D. **Aggregate Area.** The aggregate area of all support uses shall not exceed fifteen percent (15%) of the total permitted gross floor area for the total land area of the district.

- E. Building Location.** No support use shall be located above the second floor of the building in which located, with the exception of the residence of an owner or employee which may be located on any floor, and eating establishments which may be located above the second floor.
- F. Free Standing Buildings.** Data Centers, restaurants, drive-through banks, fast-food restaurants, service stations, hotel/convention centers, convenience retail stores, and other similar uses may be located in free-standing buildings; provided, however, that such uses shall be architecturally compatible with the adjacent buildings and, except for data center uses, shall not have frontage or direct access to a major or minor arterial street as defined in the adopted *Town Plan*. Such uses shall be an integral design element of an employment building complex of not less than 30,000 square feet of gross floor area and shall be allowed only in those locations shown on an approved site plan.
- G. Service Stations.** Automobile service stations shall not include any accessory uses such as vehicle or tool rental and shall not include the outdoor storage of any inoperable, wrecked or abandoned vehicles on the site for more than 72 hours.

8.6.6 Density, Intensity and Dimensional Standards

Lot area, yard and building height regulations shall be as described in the ordinance establishing the Planned Development District.

8.6.7 Floor Area Ratio

The maximum floor area ratio within a Planned Employment Center shall not exceed the maximum described in the ordinance approving the PD Rezoning Plan. Planned Development intensity shall be limited in accordance with Secs. 8.3.4. Planned Development Residential Density Limits and 8.3.5. Planned Development Nonresidential Density Limits.

8.6.8 Open Space

At least twenty percent (20%) of the gross area of a Planned Employment Center shall be open space. Any common open space provided shall be maintained as required by Sec. 8.3.6. All open space shall be included in the development schedule and be fully improved by the developer at a rate equivalent to or greater than the construction of all structures.

Sec. 8.7 PD-CC-SC, Planned Development-Commercial Center-Small Regional Center

8.7.1 Purpose

The Planned Development-Commercial Center-Small Regional Center (PD-CC-SC) District is established to preserve and continue development rights granted by previous development approvals by Loudoun County. The district is intended to serve as a zoning district whereby by-right development may continue under certain prior approvals. This district shall be limited to only those developments incorporated into the Town of Leesburg and designated as PD-CC-SC by the Town Council.

8.7.2 Use Regulations

Uses are allowed in the PD-CC-SC in accordance with the following table. A “P” indicates that the use is permitted by-right, subject to compliance with any applicable use standards of this ordinance. An “S” or “M” indicates the use may be permitted if reviewed and approved in accordance with the appropriate Special Exception or Minor Special Exception procedures of Sec. 3.4 of this Ordinance.

Table 8.7.2, PD-CC-SC Uses			
Use		Use Standards	Definition
Commercial Uses			
Adult Day Care	P		Sec. 18.1.5.1
Arts Center	P		Sec. 18.11
Bank without drive-in facility	P		Sec. 18.1.14
Bowling Alley	P		Sec. 18.1.20
Brewpub	P	Sec. 9.3.2.1	Sec. 18.1.20.1
Car wash	P	Sec.9.3.3	Sec. 18.1.27
Child care center	P	Sec.9.3.4	Sec. 18.1.29
Commuter parking lot	P	Sec. 9.3.5.1	Sec. 18.1.132
Convenience food store, no gas pumps	P	Sec.9.3.8	
Convenience food store, with service station	S	Sec. 9.3.8 and Sec.9.3.24	
Eating establishment without drive-in facility	P	Sec. 9.3.9	Sec. 18.1.54
Eating establishment with drive-in facility	P		
Emergency care facility	P		Sec. 18.1.58
Exercise studio	P		Sec. 18.1.59.2
Dance studio	P		Sec. 18.1.40.1
Farming	P	Sec. 9.3.21	Sec. 18.1.156
Funeral home	S		Sec. 18.1.69
Funeral home with crematorium	S	Sec. 9.3.6.1	
Kennel	S	Sec. 9.3.12	Sec. 18.1.88
Hotel	P		Sec. 18.1.83
Mailing services	P		Sec. 18.1.102
Media studio	P		Sec. 18.1.104
Microbrewery	P	Sec. 9.3.13.1	Sec. 18.1.104.1
Motel	P		Sec. 18.1.109
Nursery	P		Sec. 18.1.119
Office	P		Sec. 18.1.121
Outdoor storage	P/S	Sec. 9.3.17.2	
Pharmacy	P		
Printing and/or publication	P		
Recreation facility	P	Sec. 9.3.21	Sec. 18.1.156
Retail uses	P		Sec. 18.1.159
Services, personal	P	Sec. 9.3.19	Sec. 18.1.168
Service station	S	Sec. 9.3.24	Sec. 18.1.169
School, special instruction	P	Sec. 9.3.23	Sec. 18.1.164
School, technical	P		Sec. 18.1.165

Table 8.7.2, PD-CC-SC Uses			
Use		Use Standards	Definition
Theater, indoor	P		Sec. 18.1.190
Trade contractor	P		Sec. 18.1.192.1
Vehicle rental facility	S		
Vehicle sales facility	P	Sec. 9.3.28	
Vehicle and/or service facility	P	Sec. 9.3.29	Sec. 18.1.198
Veterinary Hospital	S	Sec. 9.3.30	Sec. 18.1.199
Institutional and Community Service Uses			
Club	P		Sec. 18.1.30
College or University	P		Sec. 18.1.33
Fire and/or rescue facility	S		Sec. 18.1.64
Library	P		Sec. 18.1.89
Museum	P		Sec. 18.1.111
Park, public	P		
Police station	S		
Recreation facility	P	Sec. 9.3.21	Sec. 18.1.156
School, general education	M		Sec. 18.1.162
School, public	M		Sec. 18.1.
U.S. Postal Service	P		Sec. 18.1.146
Telecommunications Facilities			
Antenna	P	Sec. 9.3.26.B	Sec. 18.1.7
Small Cells and/or Distributed Antenna System (DAS)	P	Sec. 9.3.26.F	Sec. 18.1.43.1
Monopole/Power mount facilities	S	Sec. 9.3.26.C	Sec. 18.1.108
Utility Uses			
Public utility, major	S	Sec. 9.3.31	Sec. 18.1.153
Public utility, minor	P	Sec. 9.3.31	Sec. 18.1.154

8.7.3 Continued Use

Any permitted use constructed under an approved and permitted plan by Loudoun County, prior to the effective date of an annexation or boundary line adjustment, shall continue as a lawfully conforming use until such time as modified by a subsequent rezoning application, or as modified by a Zoning Permit as required per Section 3.7 of this ordinance.

8.7.4 Special Exceptions

- A. Prior to the Effective Date.** A parcel may be developed and used as authorized by a PD-CC-SC special exception application approved by the Loudoun County Board of Supervisors prior to the effective date of a boundary line adjustment or annexation affecting that parcel. Any such approval of a special exception shall lapse and be of no further effect unless a site plan has been officially accepted for review before January 1, 2023 and the applicant diligently pursues approval of the site plan application.

- B. After the Effective Date.** Special exception applications submitted after the effective date of a boundary line adjustment or annexation shall be subject to the review and approval criteria in Sec. 3.4 of this ordinance.

8.7.5 Density, Intensity and Dimensional Standards

- A. Lot Requirements.** Lot standards shall be those established with the ordinance approving the Concept Development Plan (CDP) or as depicted on the approved CDP at the time of rezoning. There are no minimum lot standards if not established in the ordinance or depicted on the CDP.

- B. Required Yards.** Required yards shall be those established with the ordinance approving the Concept Development Plan or as depicted on the approved CDP at the time of rezoning. In the even a dimensional standard was not specifically notated, the following standards shall apply:

1. From Route 267
 - a. Buildings and appurtenances, 150 feet
 - b. Parking, storage, loading facilities, and refuse collection, 100 feet
2. From Collector Roads
 - a. Buildings and appurtenances, 75 feet
 - b. Parking, storage, loading facilities, and refuse collection, 100 feet.
3. Other Nonresidential Districts
 - a. Buildings and appurtenances, parking, storage, loading facilities, and refuse collection, 100 feet.

C. Floor Area Ratio (FAR)

1. **Maximum FAR.** Individual lots in the commercial center shall be limited to a maximum FAR of 2.0. The maximum overall FAR shall be limited as notated on the approved Concept Development Plan.
2. **Accounting.** The cumulative approved building square footage shall be tabulated on each successive site plan for development of property subject to the approved Concept Development Plan's maximum FAR.

- D. Building Height.** Building height in a planned commercial center shall not exceed fifty (50) feet, unless specifically notated on the approved Concept Development Plan, or as further restricted by height limitations in Sec. 7.7 Airport Overlay District.

Open Space. At least twenty percent (20%) of the buildable area identified on the Concept Development Plan shall be established for public and common open space. Open spaces shall be designated to be in substantial conformance with the respective Concept Development Plan. Amenities to be counted towards open space shall include, but not limited to: greens, squares, plazas, and pocket or linear parks.

8.7.6 Parking

Parking shall be provided as required in Article 11 of this ordinance.

8.7.7 Design

- A. Guidelines.** Planned Development Districts shall be characterized by superior architectural treatment and site planning pursuant to any guidelines referenced in the approved proffers, if applicable.
- B. Substantial Conformance.** Development of any PD-CC-SC zoned property shall be in substantial compliance with the layout depicted on the approved Concept Development Plan.
- C. Access.** Vehicular access shall be provided via coordinated access points meeting VDOT standards from collector roads, and coordinated inter-parcel access.
- D. Pedestrian Circulation.** A planned commercial center shall provide a pedestrian circulation plan identifying improvements that accomplish the following:
 - 1. Minimizes conflict between pedestrians and moving vehicles
 - 2. Channelizes pedestrian flows to easily identifiable crossing areas.
 - 3. Connects internal pedestrian walkways to existing or proposed pedestrian facilities.
- E. Building Orientation.** Commercial buildings shall be so grouped in relation to parking areas that after customers arriving by automobile enter the center, establishments can be visited with a minimum of internal automotive movement. Facilities and access routes for shopping center deliveries, servicing and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas. Areas where delivers to customers in automobiles are to be made or where services are to be provided for automobiles, shall be so located and arranged as to minimize interference with pedestrian traffic within the center.
- F. Landscaping.** Landscaping must increase the visual quality of building design, open spaces, vehicular and pedestrian areas and screen areas of low visual interest (such as storage and delivery areas) from public view.
- G. Free Standing Buildings.** Permitted uses may be located in free-standing buildings; provided, however, that such buildings shall be architecturally compatible with adjacent buildings and shall not have direct access to a public street.

8.7.8 Lighting

On-site lighting shall be subject to the standards in Sec. 12.11 Outdoor Lighting.

8.7.9 Signage

Signage shall be subject to Article 15 of this ordinance, unless superseded by SIDP-2015-0002, incorporated by reference herein. Any subsequent amendments to the SIDP may be administratively approved in conformance with Article 15.12 of this ordinance. An appeal of

the administrative approval shall be forwarded to the Town Council for consideration and action.

8.7.10 Application to the County Development Approvals

- A.** Prior development approvals apply to the properties listed below.
 - 1. MCPI#s 235-39-5696-000/Leesburg Commercial LC. Parcel No. 235-39-5696-000 was subdivided into five tracts or parcels of land by Deed of Subdivision recorded on July 2, 2019, as Instrument No. 20190102-0036520. The subdivided parcels include: PIN 234-38-2768 (Leesburg Commercial, L.C.); PIN 234-29-4515 (Leesburg Commercial, L.C.); PIN 234-29-0522 (Leesburg Commercial, L.C.); PIN 234-29-9964 (Leesburg Commercial, L.C.); PIN 233-17-6768 (Leesburg Commercial, L.C.).
 - 2. Parcel No. 235-20-1426-000 & 001/Wal-Mart Real Estate Business Trust.
 - 3. Parcel No. 234-27-8457-001/Toll Road Investors Partnership II.
 - 4. Parcel No. 234-29-4515/Leesburg Commercial L.C. (At Home).
- B.** Each of the parcels listed in Section 8.7.10.A may be developed and used in accordance with the County Development Approvals.
 - 1. The provisions, terms, and conditions are stated in each of the County Development Approvals: ZMAP-2012-0021, SPEX-2012-0047, SPEX-2019-0048,
 - 2. SPEX 2012-0049, SPMI 2013-0008, ZMOD 2012-0021, and ZMOD 2013-0002. These approvals include proffers, Concept Development Plan, Design Guidelines, and Modifications.
 - 3. Unless specifically provided for in the County Development Approvals, the BLA parcels shall be subject to all other applicable regulations in the Town of Leesburg Zoning Ordinance.

8.7.11 Use Standards

- 1. Accessory Fueling Station with Convenience Store
 - a. Definition: Accessory buildings and premises to large footprint retailers in which the primary use is the dispensing of motor fuels as retail sales; and, may include buildings which are primarily used for the retail sale of food or other convenience items generally purchased in small quantities.
 - b. Location: Accessory Fueling Station with Convenience Store is only permitted in the PD-CC-SC District.
 - c. Fueling Stations: Up to eight (8) fueling stations are permitted by-right. Up to a maximum of twelve (12) fueling stations may be permitted by special exception.
 - d. Canopy Height: The height of the fueling station canopy shall be the same height as permitted by Loudoun County.
 - e. Convenience Store: The size of the convenience store shall be limited to a single building with a gross floor area of no more than 1,500 square feet.

- f. **Architecture:** The convenience store building shall conform to the building design requirements in Sec. 7.12.24.B Building Design.
 - i. Building elevations shall be provided with the initial site plan submission. The Land Development Official shall approve or deny building elevations. Said approval or denial shall be provided in writing after the second submission of the revised site plan and building elevations.
 - ii. An appeal of the Land Development Official's approval or denial of building elevations shall be reviewed and approved by the Board of Architectural Review.
- g. **Parking:** Parking shall be provided at a ratio of five (5) spaces per 1,000 square feet of gross floor area.
- h. **Air Compressors:** Air compressors for use by patrons are permitted.
- i. **Outdoor Storage:** Outdoor storage and display of goods sold on premises is not permitted.
- j. **Lighting:** Lighting shall conform to the requirements of Sec. 12.11.5.A [Lighting] Standards for Certain Uses.
- k. **Signage:**
 - i. **Canopy Signage:** One (1) sign no larger than 50 square feet comprised of a single reference to the name of the business and/or identification logo.
 - ii. **Wall Signage:** One (1) sign, with its size defined by a ratio of one (1) square foot per linear foot of building to which the sign is attached.
 - iii. **Monument Sign:** One (1) sign no larger than 40 square feet, with a maximum height of six (6) feet.
 - iv. **Gas Pump Signs:** Signs on pump islands relating to self-service or full-service locations, prices, promotions, displays, fuel availability, provided no such sign shall be located on or above any canopy that extends over the pump islands. Signage for each gas pump shall not exceed eight (8) square feet.
- l. **Electric Vehicle Charging Station:** Per Section 9.4.5 Electric Vehicle Charging Stations are permitted as an accessory use to a parking facility.

Sec. 8.8 PD-IP, Planned Development-Industrial Park

8.8.1 Purpose

The Planned Development-Industrial Park (PD-IP) District is established to preserve and continue development rights granted by previous development approvals by Loudoun County. The district is intended to serve as a zoning district whereby by-right development may continue under certain prior approvals. The district shall be limited to only those developments incorporated into the Town of Leesburg and designed as PD-IP by the Town Council.

8.8.2 Use Regulations

Uses are allowed in the PD-IP in accordance with the following table. A “P” indicates that the use is permitted by-right, subject to compliance with any applicable use standards of this ordinance. An “S” or “M” indicates the use may be permitted by-right, subject to compliance with any applicable use standards of this ordinance. An “S” or “M” indicates the use may be permitted if reviewed and approved in accordance with the appropriate Special Exception or Minor Special Exception procedures of Sec. 3.4 of this ordinance.

Table 8.8.2, PD-IP Uses			
Use		Use Standards	Definition
Agricultural Uses			
Farming	P		Sec. 18.1.63
Nursery	P		Sec. 18.1.119
Stable	P		Sec. 18.1.176
Commercial Uses			
Arts center, in existing building only	P		Sec. 18.1.11
Child care center, ancillary	S		Sec. 18.1.29
Brewpub	M	Sec. 9.3.2.1	Sec. 18.1.20.1
Car wash	S	Sec. 9.3.3	Sec. 18.1.27
Conference center	P		Sec. 18.1.37
Convenience food store	S	Sec. 9.3.8	Sec. 9.3.8
Dance Studio	P		Sec. 18.1.40.1
Diagnostic laboratory	P		Sec. 18.1.42
Eating establishment without drive-in facility	S		Sec. 18.1.54
Electric and/or plumbing supply	S	Sec. 9.3.10	
Electronic Data Storage Center	P		Sec. 18.1.57
Emergency care facility	P		Sec. 18.1.58
Exercise Studio	P		Sec. 18.1.59.2
Flex Industrial/Business Park	S	Sec. 9.8	Sec. 18.1.64.1
Funeral home with or without crematorium	P		Sec. 18.1.69
Golf course	S		Sec. 18.1.72
Hospital	S		Sec. 18.1.82
Hotel/motel	S		Sec. 18.1.83
Indoor firearm range	S		
Kennel	S	Sec. 9.3.12	Sec. 18.1.88
Lumber and/or building material sales without outdoor storage	P		Sec. 18.1.101
Lumber and/or building material sales with outdoor storage	S	Sec. 9.3.13	Sec. 18.1.101
Media studio	P		Sec. 18.1.104
Microbrewery	M	Sec. 9.3.13.1	Sec. 18.1.104.1
Mini-warehouse facility	M	Sec 9.3.14	Sec. 18.1.105
Museum	P		Sec. 18.1.111
Office	P		Sec. 18.1.121
Outdoor storage	P/S	Sec. 9.3.17.2	Sec. 18.1.127
Parking structure, private	M		Sec. 18.1.135
Printing and/or publication	P		Sec. 18.1.148

Table 8.8.2, PD-IP Uses			
Use		Use Standards	Definition
Recreation Facility	P/S	Sec. 9.3.2.1	Sec. 18.1.156
School, General Education	S		Sec. 18.1.162
School, Special Instruction	P	Sec. 9.3.23	Sec. 18.1.164
Services, personal	S	Sec. 9.3.13	Sec. 18.1.168
Service station	S	Sec. 9.3.24	Sec. 18.1.169
Telecommunications Facility: Antenna	P	Sec. 9.3.26	Sec. 18.1.7
Telecommunications Facility: Monopole	S	Sec. 9.3.26	Sec. 18.1.108
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3
Telecommunications Facility: Transmission Tower	S	Sec. 9.3.26	Sec. 18.1.192
Temporary Mobile Land-Based Telecommunications Testing Facility	P	Sec. 9.3.26	
Trade contractor	P		Sec. 18.1.192.2
Vehicle repair facility, light	P		
Vehicle rental facility	S		
Veterinary hospital	P	Sec. 9.3.30	Sec. 18.1.198
Research & Development, Production and Warehousing Uses			
Industrial, Flex	P	Sec. 9.3.11.2	Sec. 18.1.84
Production	P	Sec. 9.3.22	Sec. 18.1.150.1
Research & Development	P	Sec. 9.3.22	Sec. 18.1.157
Warehouse/Distribution	P	Sec. 9.3.32	Sec. 18.1.199, 18.1.43
Institutional and Community Service Uses			
Club	P		Sec. 18.1.30
Commuter Parking Lot	P/S	Sec. 9.3.5.1	Sec. 18.1.32
Fire and/or rescue facility	S		Sec. 18.1.64
Fleet Storage, Public	S	Sec. 9.3.11.1	Sec. 18.1.66.1
Park, public	P		
Place of worship	P		Sec. 18.1.141
Police station	S		
School, general education	M		Sec. 18.1.162
School, public	M		Sec. 18.1.163
School, technical	S		Sec. 18.1.165
U.S. Postal Service	P		Sec. 18.1.146
Utility Uses			
Public utility, major	S	Sec. 9.3.31	Sec. 18.1.153
Public utility, minor	P	Sec. 9.3.31	Se. 18.1.154

8.8.3 Continued Use

Any permitted use constructed under an approved plan by Loudoun County, prior to the effective date of an annexation or boundary line adjustment, shall continue as a lawfully conforming use until such time as modified by a subsequent rezoning application, or as modified by a Zoning Permit as required per Section 3.7 of this ordinance.

8.8.4 Special Exceptions

- A. Prior to the Effective Date.** A parcel may be developed and used as authorized by a PD-IP special exception application approved by the Loudoun County Board of Supervisors prior to the effective date of a boundary line adjustment or annexation affecting that parcel. Any such approval of a special exception shall lapse and be of no further effect unless a site plan has been officially accepted for review before January 1, 2023 and the applicant diligently pursues approval of the site plan application.
- B. After the Effective Date.** Special exception approvals submitted after the effective date of a boundary line adjustment or annexation shall be subject to the review and approval criteria in Sec. 3.4 of this ordinance.

8.8.5 Substantial Conformance

Development shall be in substantial compliance with the layout depicted on the approved Concept Development Plan and/or Special Exception Plat.

8.8.6 Density, Intensity and Dimensional Standards

- A. Lot Requirements.** Lot standards shall be those established with the ordinance approving the Concept Development Plan (CDP) or as depicted on the approved CDP at the time of rezoning. There are no minimum lot standards if not established in the ordinance or depicted on the CDP.
- B. Required Yards.** Required yards shall be those established with the ordinance approving Concept Development Plan or as depicted on the approved CDP at the time of rezoning. In the event a dimensional standard was not specifically notated, the following standards shall apply:
 - 1. From Route 267
 - a. Buildings and appurtenances, 150 feet
 - b. Parking, storage, loading facilities, and refuse collection, 100 feet
 - 2. From Collector Roads
 - a. Buildings and appurtenances, 75 feet
 - b. Parking, storage, loading facilities, and refuse collection, 100 feet
 - 3. Other Nonresidential Districts
 - a. Buildings and appurtenances, Parking, storage, loading facilities, and refuse collection, fifty feet (50').
 - 4. Building Sites
 - a. The minimum required yards between buildings on adjacent lots or building sites with the development shall be thirty feet (30').

C. Floor Area Ratio (FAR)

- 1. Maximum FAR.** The maximum overall FAR shall be limited as notated on the approved Concept Development Plan.
- 2. Accounting.** The cumulative approved building square footage shall be tabulated on each successive site plan for development of property subject to the approved Concept Development Plan's maximum FAR.

D. Building Height. Building height is limited to sixty feet (60'), provided that a building may be erected to a maximum height of one hundred feet (100') if it is set back from streets and lot lines a distance of one foot (1') for each one foot (1') of building height above sixty feet (60'), unless specifically notated on the approved Concept Development Plan, or as further restricted by height limitations in Sec 7.7 Airport Overlay District.

E. Open Space. Landscaped open space on any individual lot shall not be less than twenty percent (20%) of the buildable area of the lot. Amenities to be counted toward open space shall include, but are not limited to: greens, squares, plazas, and pocket or linear parks.

8.8.7 Parking

Parking shall be provided as required in Article 11 of this ordinance.

8.8.8 Access

Vehicular access shall be provided via coordinated access points meeting VDOT standards from collector roads, and coordinated inter-parcel access.

8.8.9 Lighting

On-site lighting shall be subject to the standards in Sec. 12.11 Outdoor Lighting.

8.8.10 Signage

Signage shall be subject to Article 15 of this ordinance, unless superseded by SIDP-2015-0002, incorporated by reference herein. Any subsequent amendments to the SIDP may be administratively approved in conformance with Article 15.12 of this ordinance. An appeal of the administrative approval shall be forwarded to the Town Council for consideration and action.

8.8.11 Application to the County Development Approvals

- A.** Prior development approvals apply to the properties as listed: MCPI#s 234-48-3058-001 (ION CC Skating, LLC) and 235-29-7431 (Microsoft Corporation).
- B.** Each of the parcels listed in Section 8.8.6.A. may be developed and used in accordance with the County Development Approvals.
 - 1.** The provisions, terms, and conditions stated in each of the County Development Approvals: ZMAP-2008-0009. These approvals include Proffers and Concept Development Plan.
 - 2.** Unless specifically provided for in the County Development Approvals, the Boundary Line Adjustment Parcels shall be subject to all other applicable regulations in the Town of Leesburg Zoning Ordinance.

PLANNED NEIGHBORHOOD DEVELOPMENT DISTRICT (PND)

(Adopted 4-11-05)

175-37.1 STATEMENT OF INTENT (PND)

Pursuant to Sections 15.2-2201 and 15.2-2286 of the Code of Virginia, the Town Council of the Town of Front Royal establishes the Planned Neighborhood Development (PND) zoning ordinance to allow planned neighborhood development on large tracts of land characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning (as permitted herein) and density calculation are performed for the entire development rather than on an individual basis. The purposes of the ordinance are to provide an alternative form of development that:

- A. Eliminates standard dimensional requirements while reserving sufficient natural open space for common use, conservation or recreational purposes, and providing adequate buffering between structures and adjacent properties;
- B. Enhances the physical appearance of the Town by preserving the Town's natural assets and distinctive character;
- C. Promotes more efficient use of land and provision of public facilities, utilities, streets, and services;
- D. Provides the opportunity for innovative combinations of integrated housing, recreation, neighborhood-oriented commercial, professional uses, and increased public amenities within a single development;
- E. Conserves natural and environmental resources and the integrity of natural systems;
- F. Encourages innovative residential development so that housing demands are met by a greater variety of types, designs, and layouts of residential structures;
- G. Encourages creative and site-sensitive developments by allowing increased overall density in exchange for planned neighborhood development pursuant to this chapter.
- H. Promotes the design of a walkable environment for pedestrians within the neighborhood which provides a circulation system for various transportation modes.

I. Satisfies the general purposes of zoning regulations to promote health, safety, morals and general welfare of the community.

175-37.2 EVALUATION CRITERIA (PND)

Application for rezoning to a Planned Neighborhood Development District shall specifically demonstrate achievement of the following objectives. Each proposed Planned Neighborhood Development will be evaluated on the extent to which these objectives are achieved:

A. Provides a variety of housing types and designs at a range of densities and costs in an orderly relationship to one another.

B. Employs architectural, landscape and/or other design features to provide compatibility between different uses.

C. Includes a network of circulation systems for various transportation modes that connect to the surrounding area.

D. Conserves a minimum of 25% open space, incorporating a system of parks, open spaces, recreational facilities, and public amenities within the development which enhance the total plan of development.

E. Efficiently utilizes land to protect and preserve natural features such as trees, streams, and topographic features.

F. Provides a mechanism to relate the type, design and layout of proposed development to the specific characteristics of the particular parcel.

G. Exhibits consistency with the Town's Comprehensive Plan and provides overall benefits to the Town.

H. Demonstrates adequate capacity of public facilities and utilities to serve the development.

I. Minimizes traffic impacts upon the surrounding traffic network.

175-37.3 PERMITTED USES (PND)

A. All planned neighborhood developments shall permit the following residential and accessory uses:

1. Detached single-family dwellings;
2. Two-family dwellings;
3. Multi-family dwellings;
4. Townhouses with a maximum of eight units per structure;

5. Accessory buildings or uses as defined in Town Code Section 175-3;
6. Recreation or park facilities;
7. Retirement living facilities (handicapped accessible)
8. Municipal buildings or uses;
9. Public utilities: poles, lines, booster and relay stations, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems. Such utilities shall be buried or otherwise screened in accordance with design standards of the development;
10. Home Occupations as set forth in Section 175-108;
11. Public libraries;
12. Schools; and
13. Churches.
14. Special childcare services.
15. Open space and conservation areas.
16. Such other uses as determined similar to one or more enumerated uses by the Zoning Administrator.

(Added "14-16" 6-22-15-Effective Upon Passage)

B. Planned neighborhood developments shall permit the following community and institutional uses under the terms set forth in Section 175-37.9, Density Bonus:

1. Day care centers; and
2. Community Halls

C. Planned neighborhood developments comprising 50 acres or more may contain the uses permitted in subsections A and B as well as the following commercial uses:

1. Neighborhood-oriented commercial businesses;
2. Personal services;
3. Business or professional offices; and
4. Neighborhood restaurants; and
5. Banks, branch banks and financial institutions.

D. Planned neighborhood developments may include the following uses provided such uses are either specifically approved as part of the original development plan or approved by special use permit in accordance with Section 175-136 if proposed subsequent to approval of the Master Land Use Plan.

1. Bed and Breakfast home
2. Assisted Living Facility or other nursing home as permitted in the R-3 District.

3. Automotive fuel facilities in conjunction with neighborhood retail stores, provided adequate demonstration is made that the facility can be supported by the neighborhood in which it is located without attracting additional traffic into the neighborhood. Such facilities shall not include the storage or sale of automobiles, automotive mechanical or body repair work, painting, welding or other activities not normally associated with the dispensing of gasoline.
4. Art galleries and museums.

(Added "4" 6-22-15-Effective Upon Passage)

E. Except as otherwise specified for PND's, proposed uses within a PND shall be subject to the provisions set forth for such use in the Zoning Ordinance (Chapter 175 of the Town Code).

F. Prohibited Uses

Junkyards, off-site signage, used automobiles and truck/trailer sales, manufactured and mobile homes, outdoor storage yards, and industrial uses are prohibited in a Planned Neighborhood Development.

(Amended "F" by adding "manufactured" 7-23-12-Effective Upon Passage)

175-37.4 STANDARDS (PND)

A. Planned neighborhood developments shall contain not less than 20 contiguous acres.

B. The project area must be held in single ownership or all property owners within the proposed district must participate in the application.

C. Planned neighborhood developments shall be served by municipal water and sewer service and municipal electric service if located within the Town's electric service area.

D. Allowable base residential density. Overall residential density shall not exceed the overall allowable residential density of the parcel or parcels involved prior to the re-zoning, dedicated to uses other than the commercial uses set forth in Sections 175-37.3 B and C. This base residential density may be increased at the Town Council's discretion up to a maximum of 6.0 dwelling units per acre.

E. Conservation lands. Lands with the following characteristics shall not be developed and shall not be platted as part of a residential, community, institutional or commercial lot within a planned neighborhood development:

land within the 100-year flood plain; land with a natural slope in excess of 40 percent, and as determined by standard slope computation methods. These lands shall be designated on the plat for conservation purposes. Conservation lands may be used in computing the allowable base residential density. Nontidal wetlands may be platted, but shall be protected by preservation easements.

F. Management and ownership of common open space and facilities. All common spaces, properties, and facilities not deeded to the Town or other public entity shall be preserved for their intended purpose as specified on the approved plan. The developer shall provide for the establishment of a property owner's association conforming to the Virginia Property Owners' Association Act, Code of Virginia (1950) as amended, to ensure the maintenance of all common areas.

175-37.5 REVIEW AND CREATION OF THE PLANNED NEIGHBORHOOD DEVELOPMENT DISTRICT (PND)

Whenever a tract of land meets the minimum requirements for classification as a PND district as stipulated herein, the owner may file an application with the Director of Planning, requesting rezoning to this classification. A preliminary conference with staff prior to such filing is required.

A. Concept Plan:

1. Procedure: The owner may present and file with the Director of Planning a Concept Plan for the project, along with the fee established in the schedule of fees, showing the rough layout of major roads within the project, and such areas within the project as may be planned for particular uses or mixtures of uses, as outlined below. Upon receipt, the Director of Planning shall forward the Concept Plan to the Planning Commission for review and comment. The Planning Commission may recommend to the Town Council approval, denial or modifications to the Concept Plan.

Upon review and recommendation by the Planning Commission the Director of Planning shall forward the Concept Plan to the Town Council for review and comment. The Town Council may approve, deny or approve conditionally with stated modifications. Approval of a Concept Plan is only an expression of apparent favor to be used in preparation of

the PND Master Land Use Plan and does not authorize construction of improvements.

2. Submittal Requirements: The Concept Plan shall be prepared by a Virginia registered architect, landscape architect, land surveyor or engineer with seal and signature affixed to the plan. The plan shall be approximately to scale and clearly show the following:

(Amended "2" by adding "land surveyor" 9-26-05-Effective Upon Passage)

- a. Location map showing existing zoning and ownership of property and adjacent land;
- b. Identification of principal natural features and/or unique site design features;
- c. Relationship of the proposal with surrounding utilities and public facilities to serve the tract at the ultimate proposed densities;
- d. The location and size of the components of the PND, including the general layout of the road system within the project, location of use areas within the project planned for particular uses or mixtures of uses and their acreage, residential densities, and the interior open space system and preservation areas;
- e. Written description of the use areas;
- f. A statement demonstrating consistency with the Town of Front Royal Comprehensive Plan, suitability of the tract for the type and intensity of the activities proposed, the anticipated availability of adequate road networks, and the objectives stated in Section 175-37.1.

B. Master Land Use Plan: Within six months of the Town Council's approval or approval conditioned upon modifications of the Concept Plan, the developer/owner may prepare and file an application for an amendment to the official zoning map to a Planned Neighborhood Development (PND) District, as set forth in this chapter, together with the established in the schedule of fees for rezoning and an engineered Master Land Use Plan for development presenting a unified and organized arrangement of buildings, service areas, parking, landscaped areas, recreation areas, open space and community facilities. All information submitted for consideration as a Master Land Use Plan shall be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed district. At a minimum the information contained on a Master Land Use Plan shall include:

1. A map of the boundaries of the proposed development site, showing bearings, dimensions at a scale not greater than one (1) inch to six hundred (600) feet;
2. A statement of existing property owner(s) and the proposed developer;
3. Names and addresses of adjacent property owners;
4. A vicinity map drawn at a scale of between one (1) inch equals two hundred 2,000 feet and showing the relation of the property.
5. Topographic map with contour lines at vertical intervals of not greater than five (5) feet at a minimum scale of one inch to 200 feet;
6. A site analysis map of existing conditions, including but not limited to the location and delineation of sensitive environmental features, any 100-year floodplain, watercourse, non-tidal wetlands, areas greater than 15-percent slope, and significant geologic formations or man-made features, existing structures and public facilities, historic landmarks, existing zoning on-site and surrounding areas;
7. The overall scheme of development including general layout of proposed land uses at a scale of one (1) inch equals two hundred (200) feet;
8. The location and acreage of recreation areas, open space and conservation areas, parks within the development;
9. The location, acreage and type of nonresidential areas and uses, and community/ public uses.
10. For each residential area shown, the total number of units in each by type and density;
11. An access and circulation plan showing the general location of all existing and proposed streets and easements of right-of-way, bridges, culverts, railroads, and utility transmission lines;
12. A traffic analysis and description of the base existing conditions and traffic volumes for the connecting external road network serving the site, projected average daily traffic for all new streets within the subdivision based on the proposed land uses and the traffic growth on adjacent highways, trip generation rates for peak hours by development and phase, and internal/external trip distribution and intersection and

capacity analysis, identifying off-site access and traffic control improvements generated by the traffic demands of the proposed project at full development;

13. The proposed general location of all building areas and other improvements, except single-family and two-family dwellings and accessory buildings;
14. Notations showing the total gross development acreage, the net development acreage, acreage devoted to each land use category, the number of dwelling units and overall development density of the project;
15. General intent and schematic plans for water, sanitary sewer, storm water management, electrical services, and other utilities;
16. An approximate development schedule/phasing plan;
17. A general description of proposed agreements, provisions, or covenants that govern the use, maintenance, and continued protection of property to be held in common ownership.
18. Municipal boundaries through the property.
19. A narrative statement demonstrating consistency with the Town of Front Royal Comprehensive Plan, suitability of the tract for the type and intensity of the activities proposed, and the planning purposes to be achieved by the proposed PND as stated in Section 175-37.1, the design theme and major elements, principal site features, and environmental components integrated into the plan.
20. An impact assessment on the environment and on community facilities, services and taxes.
21. Demographic profile of proposed development (population, housing, school children and employment).
22. Other relevant data which may be used to evaluate the project.
23. A set of design guidelines describing the design principles for the site arrangement, standards for development including proposed yards, building heights, building architecture, open space characteristics,

landscaping, hardscape, and buffering, and streetscapes related to scale, proportions, and massing at the edge of the district.

The design guidelines will establish the appearance standards to be used as the basis for the appearance review occurring concurrent with the site development review. The purpose of the appearance standards shall be:

- a. To encourage development that enhances the character of the Town;
- b. To enhance and protect property values by encouraging excellent design;
- c. To encourage architectural freedom, imagination and variety, and to encourage creative design solutions that will enhance the Town's visual appearance.
- d. To promote harmonious unified development within a planned neighborhood.

C. Demonstration of Purposes: The purposes shall be demonstrated in each of the components as follows:

1. Relationship of Building Site:

- a. The proposed non-residential development shall be designed and sited to accomplish a desirable view as observed from adjacent streets.
- b. Parking areas shall be enhanced with decorative elements, building wall extensions, plantings, berms, or other appropriate means to screen parking areas from view from the streets and adjacent properties.

2. Relationship to Adjoining Areas:

- a. Adjacent buildings of different architectural styles shall be made compatible by use of screens, sight breaks, materials and other methods.
- b. Landscaping shall provide a transition to adjoining property and screening between residential and commercial uses, and for off-street commercial parking and loading areas from public view.
- c. Texture, building lines and mass shall be harmonious with adjoining property. Monotonous texture, lines and mass shall be avoided.

3. Building Design and Landscaping: The applicant shall provide a narrative for all building types describing compliance with the following, including dimensional and qualitative specifications.
- a. Quality of design and landscaping, and compatibility with surrounding uses for proposed nonresidential development. Architectural style is not restricted.
 - b. Materials and finishes of good, sound architectural quality that are harmonious with adjoining buildings.
 - c. Suitable materials for the type and design of the building. Materials that are architecturally harmonious shall be used for all exterior building walls and other exterior building components.
 - d. Building components, such as windows, doors, eaves, and parapets with appropriate proportion and relationships to one another.
 - e. Use of harmonious colors and compatible accents.
 - f. Mechanical equipment or other utility hardware on roof, ground, or buildings screened from view with materials harmonious with the building.
 - g. Non-Monotonous design with visual interest provided by variation in detail, form, and siting.
 - h. Exterior lighting used as part of the architectural concept. Fixtures, standards, and all exposed accessories harmonious with the building design.
 - i. Landscaping treatment creating unity of design, enhance architectural features, strengthen vistas, and provide shade.
 - j. Plant materials selected for interest in its structure, texture, and color and for its ultimate growth using indigenous plants and those that are hardy, harmonious to the design and of good appearance.
 - k. Protection of plant materials by appropriate curbs, tree guards, or other devices in locations which are susceptible to injury by pedestrian or vehicular traffic.

4. Signs:

- a. Signs shall conform to the provisions of Section 175-106 for residential districts and this section, except that signs erected on poles shall not be permitted.
- b. Every sign shall be of appropriate scale and proportion in relation to the surrounding buildings.
- c. Every sign shall be designed as an integral architectural element of the building and site to which it relates.
- d. The colors, materials, and lighting of every sign shall be harmonious with the building and site to which it relates.
- e. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's principal message and shall be in proportion to the area of the sign.
- f. Each sign shall be compatible with signs on adjoining plots or buildings.
- g. Logos shall conform to the criteria for all other signs.
- h. A coordinated, unified sign plan shall be utilized for direction and information within the PND.

5. Miscellaneous Structures: Miscellaneous structures and hardware shall be part of the architectural concept of the project. Materials, scale and colors shall be compatible with the building and surrounding uses.

D. The Planning Commission shall proceed in general as for any other rezoning application as required in the ordinance, and recommend to the Town Council to approve, conditionally approve or disapprove the application.

E. The Town Council shall proceed in general as for any other rezoning application as required in the ordinance. Subsequent to the public hearing and a recommendation from the Planning Commission, the Town Council shall approve, conditionally approve or disapprove the application for a Master Land Use Plan.

F. Upon approval of a Master Land Use Plan for development the official zoning map shall be amended to indicate the property as "PND - Planned Neighborhood Development". Once the Town Council has approved the

Master Land Use Plan, all accepted proffers shall constitute conditions, enforceable by the Zoning Administrator.

175-37.6 OPEN SPACE STANDARDS (PND)

A. Planned neighborhood developments shall reserve a minimum of 25 percent of the acreage of the parcel as dedicated natural open space.

B. Up to 25 percent of this requirement may be satisfied with land covered by water or by stormwater detention or retention basins (dry ponds shall not be permitted as open space), if the Town Council determines that such a water body or basin is suitable for the purposes set forth in Section 175-37.1. The dedicated open space shall not be included in subdivision lots. Dedicated open space shall include the land necessary to provide access to the open space.

C. Land characterized as conservation lands in Section 175-37.4.E. of this ordinance may be used to fulfill the minimum open space requirement up to a maximum of 50 percent of the total dedicated natural open space within a planned neighborhood development.

D. Dedicated open space shall have shape, dimension, character, location, and topography to accomplish the open space purposes specified in Section 175-37.1 and to ensure appropriate public access.

E. Dedicated open space land shall be shown on the planned neighborhood development Concept Plan and Master Land Use Plan and shall be labeled to specify that the land has been dedicated to open space purposes. The plans and final plat shall specify that the open space land shall not be further subdivided or developed and is permanently reserved for natural open space purposes.

F. The open space shall be conveyed by the applicant as a condition of plat approval and may be conveyed by any of the following means as determined by the Town Council:

1. Deeded in perpetuity to the Town of Front Royal or other governmental agency for the purposes herein.
2. Reserved for common use or ownership of all property owners within the development by covenants in the deeds approved by the Town Attorney. A copy of the proposed deed covenants shall be submitted with the application.

3. Deeded in perpetuity to a private, non-profit, tax-exempt organization legally constituted for conservation purposes under terms and conditions that ensure the perpetual protection and management of the property for conservation purposes. A copy of the proposed deeds and relevant corporate documents of the land trust shall be submitted with the application.
4. Deeded to a property owner's association within the development upon terms and conditions approved by the Town Attorney that will ensure the continued use and management of the land for the intended purposes. The formation and incorporation by the applicant of one or more appropriate property owners' associations shall be required prior to plat approval. A copy of the proposed property owner's deed and the by-laws and other relevant documents of the property owner's association shall be submitted with the application. The following shall be required if open space is to be dedicated to a property owner's association:
 - a. Covenants providing for mandatory membership in the association and setting forth the owner's rights, interests, and privileges in the association and the common land, must be included in the deed for each lot or unit;
 - b. The property owners' association shall have the responsibility of maintaining the open space and operating and maintaining recreational facilities;
 - c. The association shall have the authority to levy charges against all property owners to defray the expenses connected with the maintenance of open space and recreational facilities; and
 - d. The applicant shall maintain control of dedicated open space and be responsible for its maintenance until 75% of occupancy permits for residential units have been issued and development is sufficient to support the association.

G. The owner/developer shall convey or restrict the open space land by a deed instrument reviewed and approved by the Front Royal Town Attorney to ensure that the land will be held and managed in perpetuity for open space purposes and shall not be further developed.

H. If the planned neighborhood development is developed in phases, the provision of dedicated natural open space shall be phased with the construction of dwelling units and other improvements to ensure that a proportionate share of the total dedicated open space is preserved with each phase.

I. Streets and other impervious surfaces shall be excluded from the calculation of the minimum dedicated open space requirement; however, lands occupied by bike paths, landscaped grounds, or similar common recreational development (excluding tennis courts, golf courses, and buildings) may be counted as dedicated open space, provided that impervious surfaces constitute no more than 5 percent of the total required open space.

J. Open space shall be permanently dedicated for one or more of the following uses: natural resource conservation, recreational facilities, wetland and water course preservation, selective forestry, wildlife habitat, undeveloped parklands or scenic preservation.

175-37.7 OFF-STREET PARKING (PND)

A. The number, design, location and construction of parking lots, bays, spaces and drives shall conform to the applicable requirements of Sections 175-104 and 175-105 Zoning Ordinance and Section 148-48 of the Subdivision and Land Development Ordinance. Parking for commercial land uses shall also comply with Section 175-45 of the Front Royal Town Code.

1. Parking areas shall be planted with trees a minimum of two inches in caliper measured six inches above ground level, so that there is at least one tree per ten parking spaces within the parking lot. Such trees must be protected by curbing or other means against damage by vehicles. A minimum planting area, equivalent to 162 square feet per tree, shall be provided.
2. Parking areas shall have a landscaped island at each end of each row of vehicle spaces. No more than 15 spaces shall be laid out without an intermediate landscape island. Such planting islands shall be not less than nine feet wide in the direction parallel to the row and not less than 18 feet long in the direction perpendicular to the row. Each such island shall have a suitable poured-in-place concrete curb, or approved equal, and shall be planted with grass or ground cover. All hydrants shall be located in such islands.

175-37.8 LANDSCAPING AND SCREENING (PND)

A. Screening of Uses: Commercial, institutional, and community uses shall be screened from residential uses within and abutting the planned neighborhood development by a buffer yard 20 feet in width containing a minimum of three canopy trees, six understory trees, and nine shrubs per 100 feet of length (or an amount creating an equivalent effect and approved with the landscape plan) along the perimeter of the lot line abutting a residential use.

B. Screening along Public Roadways: Uses within a planned neighborhood development which abut an arterial street as defined in Section 148-26(C)(3)

shall be screened by a buffer yard of 20 feet in width containing a minimum of three canopy trees, six understory trees and nine shrubs per 100 feet of frontage (or an amount creating an equivalent effect and approved with the landscape plan). Canopy trees shall be deciduous shade trees planted with a minimum of two and one-half inches in caliper at six inches above the ground with a mature height of at least 35 feet. Understory trees shall be deciduous shade or fruit trees planted at minimum one and ½ inch in caliper at six inches above the ground with a mature height of at least 12 feet.

C. Existing Vegetation: Notwithstanding any other provisions of this ordinance, existing vegetation shall be retained and maintained to the extent feasible in order to permit existing vegetation to fulfill or contribute to buffer and screening requirements. In lieu of strict compliance with the above buffer yard requirements, a developer may submit a detailed landscaping plan that will afford a degree of buffering and screening comparable to that provided by these regulations in making use of existing and new vegetation. For developments utilizing more than 10 percent existing vegetation as a density bonus credit, a Certified Arborist shall provide a detailed description of the existing vegetation with notation of specimen trees, to certify compliance. The Arborist report shall be accompanied by the proposed measures for ensuring preservation during and after construction in accordance with the preservation criteria stated in the Town of Front Royal Landscape Preservation and Planting Guide.

D. Screening of Refuse Collection Facilities: Uses, except single-family homes within a planned neighborhood development shall provide secure, safe, and sanitary facilities for the storage and pickup of refuse. Such facilities shall be convenient to collection and shall be appropriate to the type and size of use being served. All refuse storage facilities shall be screened on three sides by a solid wooden fence or masonry wall and a tight evergreen hedge. The fourth side shall be angled to minimize the view of the refuse collection facility or shall be screened by an opaque gate made of durable materials. The screening shall be of sufficient height and design to effectively screen the facility from the view from nearby residential uses, streets, adjacent properties, and recreational facilities.

175-37.9 DENSITY BONUSES (PND)

Residential density bonuses up to a density of 6.0 dwelling units per acre dedicated to uses other than the commercial uses set forth in Sections 175-37.3(B) and (C) may be approved and granted at the discretion of the Town Council upon a finding that a proposed density bonus promotes the purposes of the Planned Neighborhood Development and provides additional public benefit. Each of the following amenities and any other amenities or proffered

conditions will be evaluated by the Town Council and used in negotiations with the applicant:

A residential density up to 6.0 dwelling units per acre acceptable to both the applicant and the Town Council.

A. Dedicated Open Space: In exchange for increasing the dedicated natural open space beyond the required 25 percent, the project may qualify for a density bonus, provided the natural open space is increased by a minimum of 5 percent of the developable acreage. A bonus shall not be permitted for preservation areas or without sufficient justification of demonstrated benefit to the Town. Priority shall be given to protecting existing stands of mature trees.

B. Bikeways/Greenways: A system of bike paths and pedestrian greenways may qualify for a density bonus. In order to qualify, the bike paths or greenways shall form an integrated system of access within the development to principal off-site destinations, and be integrated with other planned or existing systems (i.e., Happy Creek Trail, Conservancy Park Trail, etc.).

C. Walk-Up Housing: A dwelling unit located above the ground floor of a structure that contains a non-residential use on the ground floor may be applied toward the allowable base density as one-half of a dwelling unit.

D. Community and Institutional Uses:

Day Care Center: In a PND with 75 or more residential units, a parcel may be designated, dedicated and developed for use as a day care center. This lot shall have a minimum of 100 square feet per residential unit within the PND, and be developed in accordance with the requirements of Town Code Section 175-107.1.

Community Hall: In a PND with 100 or more residential lots or units, a community hall may be constructed, with an enclosed area of no less than 25 square feet for each residential unit or lot.

E. Developed Recreational Facilities: Such facilities may include, but shall not be limited to, tot lots and pocket parks, ball fields, courts or other athletic facilities, swimming pools, public pedestrian plazas or arcades with benches, water fountains and reflecting pools, terraces, sculptures, public art, involving unique design features and amenities. To be considered for a density bonus, such recreational facilities shall be developed at a minimum ratio of three acres per 100 units, in addition to the minimum requirement in Section 15.

F. Enhanced streetscapes: Streets developed with widened sidewalk area, substantial landscaping above the required minimum, approved traffic calming

measures, pedestrian-oriented features, and bicycle parking facilities may be considered for a density bonus.

G. Other: Additional density bonuses may be granted based upon such other innovative factors as may be proposed by the applicant and accepted by the Town Council in its sole discretion.

175-37.10 TRAFFIC IMPROVEMENTS (PND)

Where a proposed planned neighborhood development borders on an existing street whose right-of-way, traffic carrying capacity, or sight lines are inadequate to safely and efficiently accommodate the traffic generated by the proposed development, the Town Council shall require the applicant to dedicate land for needed realignment or widening, and to undertake or fund the needed street improvements.

175-37.11 DIMENSIONAL STANDARDS (PND)

A. Building Separation: No structure under 30 feet in height shall be located within 15 feet of any other structure. Buildings higher than 30 feet shall be separated by a distance equivalent to 50 percent of the height of the tallest building.

B. Height Limits: The height limits within a planned neighborhood development shall be the same as the height limits set forth in Section 175-36 for structures in the R-3 residential district.

C. Except as otherwise specifically required by Sections 175-37.01 through 175-37.19, modifications to the following design standards may be authorized by the Town as part of the rezoning or conditional rezoning application process, provided they are specifically approved, with the modified design standards taking precedence over the design standards of Chapter 148 and Chapter 175 of the Town Code.

1. Lot Area
2. Lot Width
3. Setbacks and Yard Area
4. Building Height
5. Building Separation

(Added "C" 12-12-11-Effective Upon Passage)

175-37.12 PERIMETER BOUNDARY (PND)

A. No portion of a building, structure, or parking area, shall be located within 55 feet of abutting property that is not part of the proposed planned

neighborhood, unless the zoning of the adjacent property permits uses similar to the proposed Planned Neighborhood District use to be located abutting the common boundary. Where proposed PND uses are similar to uses permitted on the adjacent property, the minimum separation shall be that same as required for the zoning district on the adjacent property.

B. No portion of a non-residential use, multi-family residential use, community use, institutional use or active recreational use shall be located within 100 feet of abutting property that is not part of the proposed planned neighborhood, unless the abutting property is developed as a Planned Neighborhood District, whereas the separation shall be equal to the existing yard requirement on the abutting Planned Neighborhood District property.

C. The minimum front yard requirement of the R-I zoning district shall apply for a minimum of 200 feet from the border of a planned neighborhood development and adjoining property that share frontage on the same side of a street.

175-37.13 MULTI-FAMILY RESIDENTIAL DEVELOPMENT STANDARDS (PND)

Multi-family housing. Such housing shall be either townhouses, multiplexes or Retirement Living Facilities.

A. Townhouses: The maximum number of dwelling units permitted within a townhouse structure shall be eight. Townhouse structures shall be developed in compliance with the following requirements:

1. There shall be a minimum of two and one-half parking spaces for each townhouse unit. The shared use of such overflow parking with other uses and activities is encouraged.
2. Walkways of four feet in width, constructed of concrete, stone, brick or similar masonry material, (not including asphalt), shall be installed from parking areas to townhouse units served by such parking areas.
3. The facades of townhouse units shall have variation in materials, setbacks, and design so that abutting units will not have the same or essentially the same architectural treatment of facades and rooflines.

B. Multiplex Structures: The maximum number of dwelling units permitted within a multiplex structure shall be thirty (30). Multiplex structures shall be developed in compliance with the following requirements:

(Amended # of Units to 30 12-12-11-Effective Upon Passage)

1. There shall be a minimum of two and one-half parking spaces for each unit. The shared use of such overflow parking with other uses and activities is encouraged.
2. Walkways of four feet in width, constructed of concrete, stone brick or similar masonry material, (not including asphalt), shall be installed from parking areas to multiplex units served by such parking areas.
3. The minimum size of each individual unit shall be no less than 600 net square feet.

C. Retirement Living Facilities: The structures shall be developed in compliance with the following requirements:

1. The facilities shall be developed as either condominium or cooperative units.
2. There shall be no less than two parking spaces for each unit. The shared use of such overflow parking with other uses and activities is encouraged.
3. Walkways of four feet in width, constructed of concrete, stone, brick or similar masonry material (not including asphalt), shall be installed from parking areas to the retirement units served by such parking areas.

D. Accessory buildings shall be limited to one enclosed storage building not exceeding seven feet in height nor exceeding ten feet in length by ten feet in width.

175-37.14 UTILITIES (PND)

Utilities, such as electric transmission cable television lines, and telephone lines, serving the planned neighborhood subdivision shall be installed underground.

175-37.15 ACCESSORY STRUCTURES (PND)

Accessory structures shall not be located within any front yard or within five feet of any other structure and shall comply with the requirements of Town Code Section 175-26D.

175-37.16 NEIGHBORHOOD RECREATIONAL USES (PND)

A minimum of 335 square feet for each residential unit shall be dedicated and developed for neighborhood recreational use to serve the recreational demands generated by the planned neighborhood development. Recreational facilities shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.

175-37.17 COMMERCIAL USES DEVELOPMENT STANDARDS (PND)

A. The total acreage of commercial users in Planned Neighborhood Development Districts shall comply with the following requirements.

Acreage of PND	Total Acreage of Commercial Uses	
20 Acres – 50 Acres	No Minimum	5% Maximum
51 Acres – 100 Acres	5% Minimum	10% Maximum
101 Acres – Plus	5% Minimum	15% Maximum

The developer/owner shall provide specific justification of commercial areas proposed in excess of 5% of the total acreage, identifying specific impacts of the commercial development and demonstrating adequate mitigation of such impacts.

(Amended “A” and Added Table 12-12-11-Effective Upon Passage)

B. Commercial uses shall be designed with the intention of serving the immediate needs and convenience of residents within and immediately surrounding the Planned Neighborhood Development.

C. Commercial uses shall not receive a certificate of occupancy until building permits have been issued for fifty percent of the residential units within the Planned Neighborhood Development.

D. Commercial structures shall comply with the height requirements in Code Section 175-50.

E. Commercial uses shall comply with the Performance Standards stated in Code Sect. 175-52.

F. Parking for commercial uses shall be in accordance with Town Code Section 175-104.

175-37.18 DEVELOPMENT REVIEW (PND)

Within one year of approval of a Master Land Use Plan for development of a Planned Neighborhood, prior to the approval of building permits, the applicant shall prepare and submit for review and approval an engineered Development Plan, along with the fee as established in the approved schedule of fees. The applicant may petition the Town Council for an extension of time for submission of a development plan, provided such extension is requested at least 20 days prior to the expiration of the one-year period. The Town Council may grant an extension upon demonstration of good cause for up to one year.

A. Development Plan: A Development Plan shall be submitted for all proposed commercial, residential, community facility, institutional, or multi-family residential development within a Planned Neighborhood Development. The Development Plan shall be drawn to scale and shall be accompanied by a narrative, as appropriate. The Development Plan shall comply with the provisions of Sections 175-111 through 175 – 122 and Section 148-20 of the Code of Front Royal, Virginia, unless otherwise provided for herein, and the following:

1. All information required for the master plan submission.
2. A development schedule. If phasing is proposed, indication of the proposed phasing schedule, along with a plan indicating phased sections.
3. A landscape plan prepared by a certified landscape architect or land surveyor shall be submitted with each site development plan application. The development plan shall identify proposed trees, shrubs, ground cover, natural features such as rock outcroppings, other landscaping elements and planting details. When existing natural growth is proposed to remain, the applicant shall include in the plans a description of the landscaping to be retained, a statement from a certified arborist that the material is desirable and healthy, and the proposed methods to protect the retained trees and growth during and after construction.

(Amended “3” by adding “land surveyor” 9-26-05-Effective Upon Passage)

4. Proposed number of dwelling units by residential types, and the area of non-residential buildings by use type (retail, office, service, etc.).
5. Calculation of the percentage of land area covered by the various land uses, including landscaped areas.
6. Proposed circulation plan showing patterns of vehicular, pedestrian, or other traffic, parking areas (including the number of parking spaces).
7. Notes identifying any deviations from the approved master plan.

(Amended by removing “8” 12-12-11-Effective Upon Passage)

B. Development Plan Revisions, Modifications: After approval, all subsequent plans, plats, and permits for the PND shall be in substantial compliance with the approved PND Master Land Use Plan. Minor adjustment to the Master Land Use Plan may be approved administratively provided there is no increase in the

overall density or number of housing units in the development and no reduction in useable open space. Revisions or modifications which substantially change the development, design, density, concept, uses, or magnitude shall cause the revised plan to be referred back through the review process as if it were an original submission.

Revisions to the Site Development Plan may be proposed by the applicant prior to the Town Council's review. The Town Council at its discretion may consider the application with minor revisions as proposed or may return the plan to the Planning Commission for further review.

C. Amendments to Planned Development Districts: Land area may be added to an established PND if it adjoins and is demonstrated to become an integral part of the approved development. The procedures for any addition of land shall be the same as for an original application and all requirements shall apply.

D. Final Plats: Final Plats shall be submitted concurrently with the Site Development Plan. Except as provided herein, Planned Neighborhood Development plats shall comply with the Zoning Ordinance, Chapter 175 and the Subdivision and Land Development Ordinance, Chapter 148 of the Town of Front Royal, Virginia, except that reasonable waivers and variances as described in Chapter 148 may be granted by the Town Council in order to facilitate creative design consistent with good community planning standards.

(Amended "D" 12-12-11-Effective Upon Passage)

E. Recordation of Documents: Any applicable covenants, governance documents and easements shall be recorded in the Warren County Circuit Court Clerk's office within six (6) months of approval of the Final Plat.

F. Appearance Review: Appearance Review by the Planning Commission shall be required for all proposed commercial, community, institutional, or multi-family residential development within a planned neighborhood development to ensure conformity with the appearance standards established by the approved design guidelines for the Planned Neighborhood Development. Such review shall occur in conjunction with the Site Development Review. Compliance with the requirements for Appearance Review shall be in addition to all other requirements.

175-37.19 DEFINITIONS (PND)

ASSISTED LIVING FACILITY - A residential facility for two or more persons that provides nursing assistance and/or support services for residency of elderly and /or disabled persons, where residents share common meals.

COMMUNITY HALL - A community hall is a structure designed and constructed for civic uses and shall include a community meeting room, a library annex, space dedicated to historical or cultural displays or uses, athletic or exercise facilities, or uses found to be similar in intent and function with this section.

MULTIPLEX STRUCTURE – This term shall mean a residential dwelling unit designed with not more than thirty (30) separate dwelling units for a maximum occupancy by thirty (30) families living independently of each other

(Added 9-26-05-Effective Upon Passage ; Amended 12-12-11-Effective Upon Passage)

NEIGHBORHOOD RECREATION USE - This term shall include basketball courts, tennis courts, playgrounds, tot lots, picnic areas, and the like.

NEIGHBORHOOD RESTAURANTS - A restaurant of not more than 20 seats, nor five employees, open for business not later than 10 p.m.

NEIGHBORHOOD-ORIENTED COMMERCIAL - This term shall include neighborhood-oriented retail businesses with not more than 15,000 square feet of gross floor area. The term shall include convenience stores, bookstores, dry cleaners, ice cream stores, barber and beauty shops, wearing apparel stores, bakeries, drugstores, gift shops, hardware stores, or other use found to be similar to one or more uses listed herein, but shall not include automobiles sales operations.

(Amended # of Square Feet and Removed “banks”-12-12-11-Effective Upon Passage)

NONTIDAL WETLANDS - Those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Clean Water Act as amended.

OPEN SPACE - Common space generally intended for passive recreation and not improved with a building, structure, vehicular travel lane, driveway, street, sidewalk, or parking area. Open space may include pedestrian ways, bike paths, trails interconnecting open space areas; undisturbed natural areas, woodlands, preservation areas; community facilities; landscaped grounds, buffers; playgrounds and tot lots; swimming and boating areas. Open space shall not include yards within individual residential lots, yards less than (30) feet wide between buildings, lands occupied by tennis courts, golf courses, and buildings.

PLANNED NEIGHBORHOOD DEVELOPMENT - Planned neighborhood development (PND) is used in two contexts. Depending upon the context,

planned neighborhood development refers to the development authorized by the ordinance or a project which is proposed for consideration under this ordinance. This term shall have the same meaning as mixed-use development and planned unit development as defined in the Code of Virginia (1989 Session Virginia Acts of Assembly - Chapter 384).

RETIREMENT LIVING FACILITIES - In accordance with Virginia Code Section 36-96.7, residential structures within a planned neighborhood development that are intended to be absent of school age children and which ensures, through covenants, management regulations or other similar legal instruments, enforceable by a homeowners' association or other similar private entity, that at least one of the residents of at least 80% of the units is 55 years of age or older. Such facilities may include extended care or nursing home facilities as defined in Section 175-3 of the Town Code.

DIVISION 10. TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT¹

Subdivision I. In General

Sec. 90-348. Purpose and intent.

The TND district provides the regulatory framework upon which the town may consider zoning district amendment applications for traditional neighborhood developments (TND) or other mixed-use forms of land use. TND district zoning map amendments shall be initiated by the applicant. Regulated by an applicant's code of development (*see section 90-355 herein below*), the TND district may be applied to locations in the (1) two urban development areas (UDAs) and (2) other established locations in Town of Woodstock with adequate public facilities or where adequate public facilities either exist or can be provided by the applicant. The TND district should be employed where the town has determined that a more flexible approach to zoning is needed to implement its comprehensive plan.

The principles, goals and strategies for traditional neighborhood development in the comprehensive plan shall guide the review and approval of a TND district. The zoning map amendment process establishes the plans, regulations, guidelines and conditions for an applicant's TND project. This approach is intended to better define the mix, scale, character, form and intensity of any given development proposal than that which could be otherwise governed by the application of the town's other zoning districts. The TND district encourages design flexibility to avoid the *one size fits all* configuration of conventional zoning districts and places an emphasis on the physical form of the built environment. Creating a mix of uses with flexible and creative approaches to organizing streets, places, buildings, and density is a principal TND objective. Each TND project shall have a mix of uses that reflect its geographical location, parcel size, terrain features, environmental challenges, marketability, and architectural design character. The TND district recognizes that certain waivers and modifications to other sections of the town's zoning ordinance as well as its subdivision ordinance and site development standards may be required for effective TND implementation.

The TND master plan and development code shall demonstrate a strong physical interrelationship among its internal neighborhoods, individual buildings, civic spaces, infrastructure, and landscaping that creates a *sense of place and community*. Individual buildings should be defined by varying scale and architectural stylings, while commercial and residential buildings should also employ complementary massing, colors, materials and proportions. Vertically integrated uses (*e.g.* the placement of residential or other uses above office and retail uses) are encouraged in the mixed-use components of a TND project. The TND district promotes higher densities with buildings fronting public streets. The zoning process will establish both minimum and maximum development densities for uses within a proposed project while providing flexibility to the applicant in mixing and matching densities.

Three primary TND sub-districts—*Village center, transitional, and residential sub-districts*—are structured to differentiate the geographical location of internal land uses, mix of uses, densities and other design parameters within the TND project. A fourth sub-district—*Economic development*—allows for specialized and conditional

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accommodation of certain large-scale retail, office parks, manufacturing, warehousing, and other employment uses that are not commonly located within traditional neighborhood developments. The zoning amendment application for a TND district may propose one or more of these sub-districts within the planned development. While it may not be required by the town in every instance, each application for a TND district zoning map amendment should incorporate two or more sub-districts. However, based on the existing land uses, infrastructure capacity, and marketplace characteristics common to each of the designated urban development areas, the town shall have approval of the final number and mix of sub-districts to be included in the TND zoning map amendment application.

Zoning map amendment applications shall address the purpose and intent of traditional neighborhood development and, further, the application should demonstrate compatibility with the following TND principles:

- (1) *Appropriate location and TND densities:* Establish viable areas for residential and commercial land uses at a compact scale, with densities appropriate for TND growth, that are located either within or close to existing developed areas and community facilities.
- (2) *Mix of uses:* Establish a blended mix of residential and non-residential land uses within the UDA that reflect TND planning objectives, enhance the quality of life of those who live there, and best serve the town's demographic demands.
- (3) *Variety of housing:* Create a variety of housing types to meet the range of projected family income distributions of both existing residents and future residential growth.
- (4) *TND lot types and geometry:* Encourage better spatial organization through the reduction of front and side yard building setbacks and smaller lot sizes.
- (5) *Pedestrian and vehicle compatibility:* Incorporate a network of pedestrian-friendly road and street designs.
- (6) *Design standards and criteria for TND streets:* Reduce subdivision street widths and turning radii at street intersections, and provide contemporary standards for street landscaping, pedestrian improvements, and pavement design.
- (7) *Neighborhood connectivity:* Establish interconnectivity between streets and pedestrian networks within the TND project.
- (8) *Local and regional transportation connectivity:* Promote the interconnection of new local streets with existing local streets and regional thoroughfares.
- (9) *Environmental preservation:* Ensure the preservation of natural areas and open space in conjunction with the TND master planning process.
- (10) *Adequate public infrastructure:* Demonstrate (a) the availability and adequacy of public water and sewer systems and other requisite public infrastructure, or (b) the ability to concurrently provide for these systems and infrastructure.
- (11) *Phasing of development:* Plan for the phasing of TND development within the UDA that is consistent with anticipated population and employment growth as well as public facilities and infrastructure capacity.

Zoning map amendments for a TND district shall be initiated by the property owner(s) or its bona fide agent. In geographical areas other than the two designated urban development areas, the town may require that a TND zoning map amendment application be either preceded or accompanied by an amendment to the comprehensive plan.

(Ord. of 4-3-2012(1), § [A.])

Sec. 90-349. TND sub-districts.

- (a) *Village center sub-district:* The village center sub-district is intended to be the primary location and activity center for non-residential uses within the TND district. The village center shall be sized for a mix of uses that establishes its location as a dominant destination point for civic life within the TND project. However, the village center should not be designed and sized to compete with or cannibalize commercial and employment uses in the town's existing downtown core area.

With a focus on a compact "main street" form of development, the village center may accommodate a range of retail, services, restaurant, office, lodging, institutional, and civic uses that are scaled to the neighborhood demands of the TND project and nearby properties. The village center sub-district is not intended as appropriate for the location of big box commercial, industrial, or other large-footprint commercial buildings that may be better suited for the economic development sub-district.

More compact residential dwellings (multifamily, townhouse, and live-work) as well as mixed commercial/residential land uses are recommended for the village center, incorporating a mix of lot groups 1 and 3 dwelling types. It should be master planned as a pedestrian-friendly, mixed-use area with a grid-styled street system that provides vehicular and pedestrian interconnectivity with the adjoining residential and transitional neighborhoods. Building frontages should define the public streetscape, with on-street parking, utilities, and landscaping located within the public right of way.

The amount and location of commercial uses in the village center sub-district should complement Woodstock's existing commercial base. Thus, in planning for TND projects in the town, TND residential and transitional uses may better serve the Woodstock's goals than creating additional commercial centers. Therefore, subject to review and approval of the town council, a village center sub-district may not be required in each TND district application. TND development proposals for the village center sub-district shall be reviewed for consistency with the adopted traditional neighborhood development goals for the UDA, the objectives for Downtown Woodstock, and other relevant policies of the comprehensive plan.

- (b) *Transitional sub-district:* This sub-district is intended to accommodate a transitional mix of lower intensity of uses in areas that separate the village center sub-district from the lower density residential sub-district. A mix of lot groups 1, 2, and 3 should be provided. Light commercial uses and shops are permitted in the sub-district but should be complementary to those in both the village center and Downtown Woodstock. A variety of residential uses and lot types are permitted in this sub-district along with community centers, churches, live-work residential, restaurants, and neighborhood-scaled shops.

Transitional sub-district uses should be within walking-distance proximity to the community's village center. As with the village center sub-district, a mix of reduced lots sizes, frontages, setbacks and building formats should be scaled to complement neighborhood streetscapes. Public right of way improvements should include sidewalks, landscaping, streetlights and on-street parking. To preserve the capacity of on-street parking, public street access to front loaded parking pads and garages is discouraged in residential neighborhoods while off-street parking should be relegated to the rear of individual residential lots. Single-family and attached residential off-street parking and garages should be accessed by alleys, where feasible.

Subject to approval of the town council, a transitional sub-district may not be a required component of every TND district application. Development proposals for the transitional sub-district shall be reviewed for consistency with the adopted traditional neighborhood development goals, objectives for Downtown Woodstock, and the overall policies of the comprehensive plan.

- (c) *Residential sub-district:* This sub-district is intended to accommodate lower density residential uses than those found in the village center and transitional areas. Neighborhoods of mixed housing types, sizes, and lot types are strongly recommended, with guidelines for the mix established with each TND district application. A mix of lot groups 1 and 2 should accommodate the majority of the residential dwellings, with the option

for a smaller percentage of lot group 3 residences to be interspersed at lower densities. Also, the applicant may propose other residential lot types to be included with the code of development.

To optimally serve the marketplace, the residential sub-district should feature blocks that accommodate a mix of lot sizes, frontages, setbacks, and housing types that are complemented by attractive streetscapes. Playgrounds, greens, and parks should be internally located within and central to sub-district neighborhoods.

Interconnected neighborhood street patterns with pedestrian improvements are a priority, and culs-de-sac should be avoided except in cases where severe terrain limitations restrict their use. Community streets should be designed to VDOT standards and dedicated for public use. Rear alleys that access off-street parking for individual lots are encouraged but not required. Where public street access to private, off-street parking is provided, frontage driveways should be shared between adjoining lots, and private garages should be located to the rear of the principal structure.

Subject to approval by the town council, a residential sub-district may not be required component of every TND district application. Development proposals for the residential sub-district shall be reviewed for consistency with the adopted traditional neighborhood development goals and policies of the comprehensive plan.

- (d) *Economic development sub-district:* This sub-district recognizes that certain uses of a higher density and community impact may be appropriate for inclusion in a TND district zoning application. Rather than require the applicant to request a separate zoning district amendment for these uses, the economic development sub-district provides the flexibility for the town to conditionally approve certain large-scale commercial and industrial uses of a scale, orientation, and impact not typically found in either Downtown Woodstock or new traditional neighborhood developments, but which, otherwise, can be shaped to fulfill the town's economic development objectives.

Big box, power center, industrial, or large-footprint non-retail employment uses that complement the balance and marketplace attractiveness of the TND district may be approved by special permit. However, the town, at its sole discretion, may determine that the economic development sub-district is not appropriate for inclusion in a given TND district application. Development proposals for the economic development sub-district shall be reviewed for consistency with both the UDA traditional neighborhood development goals, the objectives for Downtown Woodstock, and the overall economic development policies of the comprehensive plan.

(Ord. of 4-3-2012(1), § [B.])

Subdivision II. Development Standards

Sec. 90-350. TND district area requirements.

- (a) *TND district size:* There is no minimum or maximum TND district size stipulated by ordinance. The town council, at its sole discretion, shall establish the appropriate size for the TND district upon review of an applicant's zoning map amendment package. The proposed size and configuration of the TND district shall be described by a current boundary plat prepared by the applicant that establishes the metes and bounds and acreage for the property or properties subject to the zoning map amendment application.
- (b) *TND sub-district size:* The size and configuration of the village center, transitional, residential, and economic development sub-districts interior to the TND district shall be depicted on an exhibit accompanying the TND master plan that establishes the approximate boundary and acreage for the properties to be configured as sub-districts.

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- (c) Requests for modification to the size and location of an approved TND district shall require a separate zoning map amendment application.
 - (d) Modifications to the size and location of internal sub-districts within an approved TND district may be administratively approved by the planning director. The planning director shall determine whether a modification is deemed "minor".
 - (e) Other modifications to the size and location of internal sub-districts within an approved TND district shall require an amendment to the original zoning map amendment.

(Ord. of 4-3-2012(1), § [C.])

Sec. 90-351. Permitted land uses, special permit uses, and land use categories.

- (a) Permitted uses to be included in the TND district shall be defined by the applicant's code of development, provided that the town, at its sole discretion, may establish certain prohibited or restricted uses.
- (b) The town council, at its discretion, may impose additional limitations and restrictions as may be related to residential density and unit yield, ground floor area footprint, total building floor area, and lot types for individual uses and establishments within the sub-district in which the use is to be located.
- (c) The code of development shall identify permitted uses and special permit uses within each sub-district. The permitted uses shall be defined in terms of the category and specific uses as outlined in *Table 1* hereinafter.

(Ord. of 4-3-2012(1), § [D.])

Sec. 90-352. Development density and yields.

- (a) The TND district regulates both minimum and maximum development densities. The total minimum and maximum development yields for individual land uses within a TND district project and its individual sub-districts shall be established by proffer to the town upon consideration of the applicant's code of development and other requirements of the zoning application. Density regulations shall apply to both new development and redevelopment uses.
- (b) *Minimum density:* Development densities for the land uses proposed for each sub-district shall achieve a minimum density of at least the levels for the individual land uses as indicated in *Table 2* hereinafter or as shall otherwise be established by the code of development.
- (c) *Maximum density:* Development densities for the land uses proposed for each sub-district shall not exceed the levels for the individual land uses as indicated in *Table 2* hereinafter or as shall otherwise be established by the code of development.
- (d) The applicant shall demonstrate in the code of development the appropriateness of the level of minimum and maximum densities proposed for each land use.
- (e) Upon request of the applicant, the town council, at its sole discretion, may reduce the minimum required density for individual uses within the TND district or within any of the TND sub-districts contained therein, provided that the revised minimum density shall be established for each land use or lot within the sub-district and incorporated into the code of development. It shall be the responsibility of the applicant to demonstrate the justification for the reduction in density.
- (f) Upon request of the applicant, the town council, at its sole discretion, may increase the maximum required density for individual uses within the TND district or within any of the TND sub-districts contained therein, provided that the revised maximum density shall be established for each land use or lot within the sub-

district and incorporated into the code of development. It shall be the responsibility of the applicant to demonstrate the justification for the increase in density.

- (g) The allowable range of land use yields within the sub-districts shall be calculated based on the qualifying area (or net acreage of the individual sub-district). The calculation of minimum and maximum yield for individual uses to be located in the sub-districts shall be based on the application of the minimum and maximum density for each use (*see Tables 2 and 3 herein*) to an adjusted qualifying area that reduces the gross area of the TND by the total of the non-qualifying land components within the sub-district.

The *Qualify Area (or Net Acreage)* = *Gross Acreage* – *Non-Qualifying Area* (or acreage of the sum of the non-qualifying land components.)

The land components that comprise the non-qualifying land area include:

- (1) Existing rights of way and easements,
- (2) Existing land uses,
- (3) Areas deemed unbuildable due to geological, soils, or other environmental deficiencies,
- (4) Wetlands and floodplains (FEMA 100-year floodplain),
- (5) Existing ponds, stormwater management facilities and water features that are not defined by wetlands or floodplains, and
- (6) Terrain with slopes in excess of 30 percent.

See Appendix A: TND density calculation worksheet and sample calculation of density and yield.

(Ord. of 4-3-2012(1), § [E.])

Sec. 90-353. Lot and yard types—Size, lot dimensions, and height regulations.

- (a) Lot types: *Table 3: Lot Types and Lot Development Standards* provides a matrix of lot types permitted in the TND district.

- (1) Lots for small-detached residential dwellings:
 - a. Cottage lot.
 - b. Village lot.
- (2) Lots for medium detached residential dwellings:
 - a. Neighborhood lot #1.
 - b. Neighborhood lot #2.
- (3) Lots for attached and multifamily residential dwellings:
 - a. Townhouse lot #1.
 - b. Townhouse lot #2.
 - c. Multifamily lot.
- (4) Lots for commercial and live-work commercial buildings:
 - a. Commercial lot.
 - b. Live-work lot.
- (5) Lots for economic development and special permit buildings: established by code of development.

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- (b) Lot development standards: *Table 3* establishes the regulations and guidelines for the size and dimensions of individual lot types as permitted within the individual TND sub-districts. *Table 4: TND District Residential Lot Mix Work Sheet* establishes the mix of lot types within each sub-district. *Appendix B* provides illustrations of representative lot types and building configurations.
- (1) Lot dimensions.
 - (2) Lot area.
 - (3) Yard and setback regulations.
 - (4) Lot coverage.
 - (5) Lot frontage percentage.
- (c) Supplemental notes for lot types and lot development standards: In (1)—(9) below, the notes refer to footnotes (1)—(9) as cited in *Table 3*.
- (1) This table is regulatory except where noted by asterisk (*) as guidelines. Guidelines for variations to the indicated dimensions and percentages shall be approved by the planning director.
 - (2) For corner lots, lot width and side yards shall be increased by five feet in addition to the prescribed dimensions.
 - (3) For attached dwellings, town homes and multifamily buildings, the indicated side yard regulations apply only to end units.
 - (4) Rear setback applies to principal structure only. Garages and/or accessory units may have a zero setback when an alley is present.
 - (5) Lot frontage percentage represents the ratio between the building width and corresponding width of the lot on which the building is located.
 - (6) Lot coverage ratio guideline applies to maximum percentage of building coverage. Lot areas for townhouses and multifamily units exclude areas for required off-street parking. Ratio for townhouses applied to internal units; end unit ratios not governed.
 - (7) The code of development shall include a lot mix matrix for maximum and minimum distribution of lot types that are permitted within any given sub-district. (See *Appendix A* for illustrative example and application work sheet.)
 - (8) The lot dimensions, lot area, yard and setback regulations, and lot frontage regulations shall be established with the code of development.
 - (9) The applicant shall submit a supplement to the lot types and lot development standards matrix to identify, define, and regulate additional land uses and lot types that are to be incorporated into the code of development.
- (d) Building heights for individual uses:
- Building heights shall be identified and established by the code of development for each land use or combination of land uses within each of the sub-districts (village center, transition, residential, economic development) of the TND district and, further, shall be subject to the following minimum and maximum height limits. (See *Table 5*).
- (e) Upon request of the applicant, the town council, at its sole discretion, may either increase or decrease the regulations for building heights, yards, and lots for individual uses within the TND district and its sub-districts, provided that the revised regulations shall be established for each land use or lot within the sub-district and incorporated into the code of development. It shall be the responsibility of the applicant to demonstrate the justification for the adjustments to these regulations.

(Ord. of 4-3-2012(1), § [F.])

Sec. 90-354. Civic space, parks, open space, and recreation areas.

- (a) TND district projects with a gross area of 15 acres or greater shall provide usable and centrally located civic space, parks, common open space, or recreation areas that are accessible to residents, visitors, and workers within the TND district. Civic space, public parks, common open space, or recreation areas shall be strategically located and designed to provide recreational opportunities for the neighborhood as well as relate to the physiographic character and accessibility to the entire TND.
- (b) For TND district projects with a gross area of 15 acres or greater, these areas shall be sized, located, and improved to a level that satisfies the needs of the residents of the project, provided that a minimum of 15 percent of the total qualifying area of the TND shall be allocated to these areas. (See *subsection 90-352(g)* for definition of qualifying area.) The application plan and code of development shall establish the type, mix, arrangement, and quality of the planned on-site improvements for civic space, parks, common open space, recreation areas, buffer areas, and protected natural areas.
- (c) For TND district projects with a gross area of 15 acres or greater, the location, mix, type, quality and phasing of civic space, parks, common open space, recreation areas, buffer areas, and protected natural areas shall be consistent with the comprehensive plan or other criteria established by the town. These areas shall be delineated on the application plan and may include greens, squares, plazas, community centers, clubhouses, trails, pocket parks, or community gardens.
- (d) For TND district projects with a gross area of 15 acres or greater, the areas of property designated for civic space, parks, common open space, recreation areas, buffer areas, and protected natural areas shall be (a) subject to approval of the planning commission, and (b) permanently set aside for the sole benefit, use, and enjoyment of occupants of the TND district through covenant, deed restriction, or similar legal instrument; or, if agreed to by the planning commission, the civic space, parks, common open space, recreation areas, buffer areas, or protected natural areas may be conveyed to a governmental agency for the use of the general public.
- (e) Land within the TND that is designated to remain private for any of these areas and improvements shall be owned and maintained by a property owners' association or homeowners association.
- (f) Upon request of the applicant, the planning commission, at its sole discretion, (a) may decrease or eliminate certain requirements for open space and recreation land and improvements in a TND district project, provided that the revised regulations shall be established and conditioned by the code of development, or (b) elect for the applicant to contribute to a pro-rata share fund, provided that the town has established and adopted a parks and recreation master plan and pro-rata sharing funding policy.
- (g) The town's parks and recreation master plan shall address the specific regional needs, specific improvements, and funding policy for the development of civic space, parks, open space, and recreation areas that inure to the benefit of all citizens within the TND district. The amount of the pro-rata share contribution shall be updated and recalculated on an annual basis by the town.
- (h) For projects that are less than 15 acres in gross area, the applicant shall contribute to a pro-rata share fund as may be established by the town in its parks and recreation master plan. In the absence of an adopted parks and recreation master plan and pro-rata share funding policy, there shall be no contribution requirement on an applicant for projects less than 15 acres.
- (i) The amount of the pro-rata share contribution shall be updated and recalculated on an annual basis by the town.

(Ord. of 4-3-2012(1), [G.])

Subdivision III. Submissions and Review

Sec. 90-355. Code of development—Application requirements.

- (a) *TND master plan*: The master plan establishes the size, location, and configuration for the TND district, its sub-districts, and other internal planning areas (parks, open space, dedicated areas, etc.). It provides a graphic representation of the project's transportation network and key components of development of the property, including but not limited to the requirements of sections 90-350—90-353 hereinabove and the following:
- (1) Existing conditions plan depicting existing land uses, existing road and utilities, dedicated rights-of-way and easements, transportation alignments or infrastructure locations designated by an official map, historic and cultural features, tree coverage, and sensitive environmental areas of the property, including 100-year floodplain, wetlands, slopes greater than 30 percent, unbuildable areas, and other features as may be required by the planning director.
 - (2) Certified boundary plat, deed description, tax map reference and zoning district designation of the property (or properties) subject to the TND district zoning application, zoning district designations and ownership of adjoining properties, and topographic mapping (minimum 1 inch = 100 feet horizontal scale and 2 feet contour intervals, or at a scale and interval as otherwise approved by the planning director).
 - (3) Graphic plan exhibit depicting the internal layout and organization of sub-districts; to include the number, size, location, and boundary for each of the sub-districts (to be prepared at a minimum 1 inch = 100 feet horizontal scale or at a scale as otherwise approved by the planning director).
 - (4) Graphic plan depicting the proposed open spaces, buffer areas, public parks, environmental preservation areas, and recreation areas.
 - (5) Overlay plan exhibit depicting the projected development phasing plan.
 - (6) Illustrative master plan exhibit depicting the general location of planned mix of uses and lot types for uses to be allocated within each sub-district (to be prepared at a minimum 1 inch = 100 feet horizontal scale or at a scale as otherwise approved by the planning director).
- (b) *Development code*: A narrative report and graphic exhibits that codifies the key components of the project proposed for the TND district and establishes the land use regulations, criteria, and guidelines for each TND sub-district, to address the following:
- (1) The applicant shall prepare a statement of compatibility of the proposed project with the town's TND zoning district and comprehensive plan land use policies, including justification for the number of the proposed sub-districts to be included in the zoning amendment application.
 - (2) Lot types and lot development standards matrix (*Table 4*), to incorporate supplemental standards as may be required by additional proposed land uses and lot types.
 - (3) Table of proposed by-right land uses, special permit uses, and specific land use exclusions applicable to each sub-district,
 - (4) Graphic representation of proposed generalized building forms, types and densities,

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- (5) Residential lot mix work sheet (*Table 4*), to address proposed mix of residential lot types within each sub-district, to include documentation for proposed lot variations and special conditions.
 - (6) Narrative and graphic exhibits to support justification, qualifications, and conditions related to special permit uses.
 - (7) Statement of minimum and maximum density, to include submission of density calculation worksheet for the sub-districts (*see Appendix A*).
 - (8) Parking impact study to assess parking area and loading requirements, including locational guidelines within each sub-district and for the overall project.
 - (9) Documentation and plan demonstrating compliance with VDOT state secondary street acceptance requirements.
 - (10) A signage plan is required for the entire TND district which establishes a uniform sign theme with graphic representation of the design character, style, number, size, height, and number of signs to be permitted within the individual sub-districts. Signs shall share a common style, as to size, shape, and material. With the exception of the economic development sub-district, all TND district signs shall be either wall signs or cantilever signs. No billboards shall be allowed within the TND. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed ten square feet. Where signs otherwise vary in requirements with the existing town sign ordinance, the applicant shall provide justification for the proposed variation. Signs that are to be specifically exempted shall be defined. Upon approval of the zoning amendment application, the signage plan will regulate all signs within the TND district in lieu of the town's sign ordinance.
 - (11) A projection of planned project's infrastructure demands on public water and sewer and an assessment of the adequacy of existing public infrastructure and facilities for the proposed project.
- (c) *Street classification plan:* A regulating street classification plan shall graphically address and depict the street system, street types, and streetscape design criteria for the types of vehicular and pedestrian access improvements within the project:
- (1) Regulating plan for the alignment and classification of the project's street system, identifying interior and frontage streets, and including designation of street types, block lengths and geometry, alley locations, and pedestrian improvements within each sub-district.
 - (2) Graphic standards to illustrate plan and street cross sectional views, including right-of-way or easements specifications, for individual streets types (including alleys and pedestrian improvements).
 - (3) Design guidelines for public hardscape, landscaping, street lighting, and placement of utility, storm drainage, and related infrastructure, including easement requirements and regulations.
- (d) *Building form and landscape design guidelines:* Documentation and graphics to describe the proposed characteristics of building design and landscape architectural improvements for each sub-district within the TND project:
- (1) Graphic representation of proposed architectural themes.
 - (2) Building form and styles, to address building scale, architectural proportions, and heights for uses within each sub-district.
 - (3) Landscape design guidelines to depict proposed landscape treatment of streets, neighborhoods, civic spaces, open areas, parking areas, and other activity centers within the project.
- (e) *Schematic infrastructure plans:* The schematic infrastructure plans shall provide sufficient documentation and graphic support to ensure the feasibility and functionality of the master plan to the satisfaction of the town to address the following:

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- (1) Storm drainage, stormwater management facilities, and best management practices.
 - (2) Sanitary sewer.
 - (3) Domestic water.
 - (4) Site grading (proposed finished grades at minimum five feet contour intervals); to depict the extent of land disturbing activities that (1) will impact slopes that are greater than 30 percent and (2) require clear-cutting of existing tree cover.
 - (5) Easement specifications and requirements for each public utility and facility, to include coordination requirements and agreements that may be needed by and between utility providers, VDOT, and the town.
- (f) *Traffic impact analysis:*
- (1) The town and applicant shall determine whether or not the subject TND district project shall require a traffic impact statement to be prepared consistent with VDOT 527 regulations.
 - (2) If a 527 traffic impact analysis is required, the applicant shall prepare and submit a pre-scope of work meeting form to the town on or before the date of formal submission of the zoning district amendment application. The pre-scope form shall be processed, reviewed by and between the town, VDOT and the applicant in accord with adopted regulations and procedures.
 - (3) If a 527 traffic impact analysis is not required, the applicant shall meet with the planning director to determine the required scope for a traffic analysis for the TND project the planning director shall approve the elements to be addressed in the study scope. The traffic analysis shall be submitted with the zoning amendment application. Minimum requirements may include the following:
 - a. Existing traffic counts (a.m. and p.m. peak hours) at intersections to be identified by the town.
 - b. Trip generation estimates for the planned land uses within the proposed development, employing ITE methodologies.
 - c. Trip distribution and assignments to the existing road network of traffic projected for the development at full-buildout.
 - d. Estimates of background traffic growth on impacted streets and highways.
 - e. Analysis of future conditions, to include level of service calculations for impacted intersections.
 - f. Signal warrants analysis.
 - g. Statement of recommended transportation improvements to provide adequate levels of service for the traffic generated by the proposed project.

(Ord. of 4-3-2012(1), § [H.])

Sec. 90-356. Additional application requirements and agreements.

- (a) The applicant shall submit a statement of zoning proffers and conditions.
- (b) The applicant shall identify and establish standards for TND utility and infrastructure design and easement requirements. The applicant shall also identify and establish procedures to pursue any required waivers and modification of existing town zoning, subdivision, and design standards related thereto, as applicable to implement the proposed project.
- (c) The applicant shall establish criteria and agreements for internal street ownership (public or private) and maintenance responsibility.

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- (d) The applicant shall establish agreements for public ownership, management, and maintenance of properties within the project to be dedicated to public use, where applicable, and establish rules for common property ownership and maintenance, if applicable.
 - (e) The applicant shall provide an assessment of cash and in-kind improvements that may qualify for proffers associated with the specific project.
 - (f) The applicant shall submit a fiscal impact statement with the zoning map amendment application that assesses the impact of the proposed project on the town's capital facilities and infrastructure. The fiscal impact assessment shall evaluate the relative cost-benefits of the project and shall provide projections for both the tax revenues and governmental expenditures for public services, infrastructure and facilities.
 - (g) The applicant, in conjunction with the town, shall establish design criteria and use conditions for each land use subject to special use permit approval.
 - (h) The applicant shall provide written request and documentation in support of any amendment, waiver or modification to town codes, ordinances, and development standards relevant to the TND application.
 - (i) If all or any portion of the property is to have land or improvements that are to be dedicated to a property owner(s) association, the applicant shall identify the property or improvements subject to dedication and shall submit draft articles of incorporation, by laws, and related operating documents for town review.

(Ord. of 4-3-2012(1), § [I.])

Sec. 90-357. TND application and review process.

- (a) *Pre-application meeting:* The applicant shall schedule a meeting with the planning director for an introductory work session to discuss the key elements and impacts of the proposed project. The planning director and other town agency representatives shall provide guidance on (a) application requirements, (b) timeframe for processing of the zoning map amendment application, (c) comprehensive plan considerations, (d) identification issues related to public infrastructure and facilities, and (e) other matters as may be uniquely related to the applicant's property.

At this meeting, the applicant shall present a sketch plan that depicts the following: (a) general boundary and location of property subject to rezoning application, (b) land area to be contained within the TND district, (c) graphic representation of the arrangement of interior sub-districts, (d) planned mix of land uses and densities, and (e) general approach to addressing transportation, infrastructure and community facilities.

- (b) *TND application package submission meeting:* The applicant shall schedule a meeting with the planning director to submit and initially review the contents of the TND district zoning map amendment package for completeness. Within five working days of the completion of the meeting, the planning director shall notify the applicant in writing if the application package meets the town's expectations for completeness.

If the application package does not meet expectations, the planning director shall provide written notification to the applicant of the additional requirements necessary to establish a complete application. Once an application has been deemed a formal "complete application" by the planning director, the application package shall be distributed for formal review in accord with town policy. An incomplete application will not be reviewed.

- (c) *Staff review meeting #1:* The planning director shall notify the applicant upon completion by town staff and relevant agencies of the first review of the TND district application package. Written comments shall be provided to the applicant at the first staff review meeting. The applicant shall revise and resubmit materials as necessary to satisfy town comments.

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- (d) *Staff review meeting #2:* The planning director shall notify the applicant upon completion of the second review by town staff and relevant agencies of the TND district application package. Written comments shall be provided to the applicant at the first staff review meeting. The applicant shall revise and resubmit materials as necessary to satisfy town comments.
 - (e) *Planning commission work session:* A work session with the planning commission may be requested by either the applicant or the planning director at any time subsequent to staff review meeting #1.
 - (f) *Planning commission public hearing:* One or more public hearings may be conducted by the planning commission to review and make recommendations on the applicant's TND district zoning map amendment application.
 - (g) *Town council work session:* A work session with the town council may be requested by either the applicant or the planning director at any time subsequent to the planning commission public hearing.
 - (h) *Town council public hearing:* One or more public hearings may be conducted by the town council to take action on the applicant's TND district zoning map amendment application.
 - (i) *Public notifications and work sessions:* The town may determine it is in the public interest to schedule a work session at any time during the zoning map amendment review process.
 - (j) *Status of TND district approval:* Given that each TND project will have a range unique characteristics (as defined by the code of development) and location within the town, an approved TND shall be established as separate zoning district. An approval of a traditional neighborhood development shall be considered an amendment to the zoning ordinance.

The TND district approval by the town establishes the restrictions and regulations according to which the TND shall occur. The TND district approval shall define and may depart from the normal procedures, standards, and other requirements of the other sections of the zoning ordinance and subdivision ordinance regulations to the extent approved by the town council (see Section 90-358, herein below).

- (k) *Changes and modifications to an approved TND district:* Any subsequent changes and modifications to the approved TND district, the code of development, or other elements related to the original conditions for approval of the zoning map amendment shall be submitted by the applicant to the planning director.

The planning director shall determine whether the requested change is a major or minor change. Major changes shall require approval by the town council employing the zoning map amendment process. Minor changes shall require approval by the planning director, who, at its discretion, may obtain recommendations from the planning commission. The town, at its discretion, may establish policies for major and minor changes.

(Ord. of 4-3-2012(1), § [J.])

Sec. 90-358. Waivers, variances and modifications for TND.

- (a) The applicant shall clearly identify and document all waivers, variances and modifications to existing town codes, ordinances, and development standards that may be required to implement the proposed TND project.
- (b) Documentation to be submitted with the TND district zoning map amendment application shall (a) address the justification for each requested waiver, modification, or development standard, and (b) recommend alternative substitute proposals, including design and construction standards, where applicable. Graphic exhibits shall clearly depict areas and locations where the waiver, variance, or modifications impacts the proposed project.

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- (c) The town council, upon its consideration of the recommendation of the planning director and the planning commission, may, at its sole discretion, act to approve, modify, or deny each requested waiver, variance, or modification.
 - (d) No approval or modification shall be granted by the town council for any waiver, variance, or modification in the absence of an adequate and sufficient substitute, including design and construction details and standards, where applicable. Where a waiver, variance, or modification is approved by the town council, the accepted substitute shall become a condition of the TND district zoning map amendment approval.
 - (e) The town council, at its option, may recognize an approved code of development as having fulfilled its requirements for a preliminary subdivision plan or preliminary site plan. Upon such recognition, the applicant may proceed with the preparation of final plats and plans in accord with the provisions of the code of development and other conditions and proffers that were subject to the TND zoning map amendment approval.

(Ord. of 4-3-2012(1), § [K.])

CITY OF HARRISONBURG
PART II - THE CODE OF GENERAL ORDINANCES
Title 10 - PLANNING AND DEVELOPMENT
CHAPTER 3. - ZONING
ARTICLE K. R-4 PLANNED UNIT RESIDENTIAL DISTRICT

ARTICLE K. R-4 PLANNED UNIT RESIDENTIAL DISTRICT

Sec. 10-3-49. General.

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the "R-4" Planned Unit Residential District Regulations.

(Ord. of 4-23-96)

Sec. 10-3-50. Purpose of district.

This district is intended to permit the development of planned residential neighborhoods containing not less than twenty-five (25) contiguous acres, which may include properties located directly across public or private street or alley rights-of-way from one another, under one (1) ownership or control at the time of approval for development. The minimum acreage requirement may be waived subject to rezoning of adjoining parcels to an existing R-4 district. Within the district the location of all buildings, playgrounds, recreation and green areas, parking areas and open spaces shall be developed in such a manner as to promote a variety of residential and permitted nonresidential buildings in orderly relationship to one another. Designated open green space other than required parking areas shall be at least fifteen (15) percent of any plan of development. Open space requirements are intended to provide amenities which enhance the total plan of development and should be in close proximity to the principal elements of the district.

(Ord. of 4-23-96; Ord. of 1-8-13(5))

Sec. 10-3-51. Uses permitted by right.

[The following uses are permitted by use:]

- (1) Any use permitted by right in the R-1 and R-2 residential districts.
- (2) Dwelling units may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations.
- (3) Attached multiple-family buildings of not more than twelve (12) units and attached townhouses of not more than eight (8) units.
- (4) Nonresidential uses which are designed for the convenience of the adjoining residential areas, such as small shops, stores and offices which are concentrated within an area not to exceed ten (10) percent of the plan of development, and in which no singular commercial use exceeds two thousand (2,000) square feet of gross leasable area. Nonresidential uses which customarily depend on drive-in facilities are not permitted.
- (5) Uses in an R-4 District shall be permissible only in the location shown on the approved plan of development.
- (6) Accessory buildings and uses clearly incidental to the above.

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- (7) Child day care centers.
 - (8) Adult day care centers.
 - (9) Public uses.
 - (10) Community buildings for associated townhouse and multiple-family developments.
 - (11) Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
 - (12) Homestays, as further regulated by Article DD.
- (Ord. of 4-23-96; Ord. of 2-22-00; Ord. of 3-28-17(6); Ord. of 5-22-18(6); Ord. of 9-8-20(2))

Sec. 10-3-52. Uses permitted only by special use permit.

[The following uses are permitted by special use permit only:]

- (1) Private clubs and golf courses.
- (2) Community buildings (other than those permitted by right).
- (3) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to two hundred (200) feet in height. Wireless telecommunications facilities are further regulated by article CC.
- (4) Major family day home.
- (5) Walls and fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the city council.
- (6) Reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.
- (7) Public uses which deviate from the requirements of title 10, chapter 3.
- (8) Short-term rentals, as further regulated by article DD.

(Ord. of 4-23-96; Ord. of 7-26-05; Ord. of 4-28-09(5); Ord. of 4-26-11(5); Ord. of 1-8-13(6); Ord. of 9-23-14(5); Ord. of 7-28-15(11) ; Ord. of 3-28-17(7); Ord. of 8-22-17(7); Ord. of 3-26-19(1))

Sec. 10-3-53. Area and dimensional regulations.

Except as provided in article T, and as required in article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

	MINIMUM FEET					MAXIMUM	
Lot Area Sq. Ft.	Lot Width	*Lot Depth	Front Yard	**Side Yard	Rear Yard	Stories	Height Feet

Single-Family: 6,000	80	100	30	10	20	3	35
Duplex: 3,000/unit	60	100	30	10	25	3	35
Multifamily: 3,000/unit	60	100	30	10	25	3	40
Townhouse: 2,000/unit	18	112	30	10	25	3	40

*Measured at the point of required front setback line.

**See special regulations for attached duplex dwellings, multifamily dwellings and townhouses in article T.

(Ord. of 4-23-96; Ord. of 9-11-01(2); Ord. of 11-25-08(2); Ord. of 2-24-09(2); Ord. of 7-28-15(12))

Sec. 10-3-54. Other regulations.

- (a) Attached or detached private radio and television antennas, including dish antennas, shall not exceed the maximum height otherwise permitted in all districts and shall not be permitted in front yards.
Exception: Private amateur radio antennas intended for public service and emergency use may exceed the height otherwise established so long as the height is justified for proper radio communications.
- (b) Off-street parking regulations for all new buildings and uses permitted in this district are governed by article G.
- (c) More than one principal building may be constructed upon an unsubdivided parcel of land as density allows. The open spaces between each building as measured at the closest point between building walls shall not be less than twenty (20) feet. The minimum separation between buildings may be superseded by building regulations. The front facade of each principal building shall face a dedicated public street or the limits of a private parking unit (as defined) and no building shall have the rear facade along a dedicated public street.
- (d) Proposed building projects as permitted in this district, which rely on private refuse collection, shall provide a designated point of collection with appropriate facilities. Said facilities shall be screened and shall meet the requirements for accessory buildings per section 10-3-114.

(Ord. of 4-23-96; Ord. of 1-14-14(6); Ord. of 7-28-20(3))

Sec. 10-3-55. Reserved.

ARTICLE K.2. R-5 HIGH DENSITY RESIDENTIAL DISTRICT

Sec. 10-3-55.1. General.

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the regulations for the "R-5" High Density-Residential District.

(Ord. of 4-24-07)

Sec. 10-3-55.2. Purpose of district.

This district is intended for medium to high density residential development, including townhouses and multiple-family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. Vehicular, pedestrian and bicycle transportation is facilitated through a connected system of roads, sidewalks and shared use paths, so as to provide many choices with regard to mode and route, and to provide a safe and comfortable pedestrian environment that promotes walkability for residents and visitors.

(Ord. of 4-24-07; Ord. of 3-13-12(12))

Sec. 10-3-55.3. Uses permitted by right.

The following uses are permitted by right:

- (1) Townhouses of not more than eight (8) units per building.
- (2) Multiple-family dwellings of not more than twelve (12) units per building.
- (3) Dwelling units may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations.
- (4) Community buildings for associated townhouse and multiple-family residential developments.
- (5) Public and private schools.
- (6) Child day care.
- (7) Adult day care.
- (8) Churches.
- (9) Parks.
- (10) Public uses.
- (11) Accessory buildings and uses clearly incidental to the above. Accessory uses incidental to permitted nonresidential uses shall be located within principal buildings when such accessory function serves the public. Parking garages are permitted within the district.
- (12) Home occupations.
- (13) Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
- (14) Homestays, as further regulated by Article DD.

(Ord. of 4-24-07; Ord. of 3-24-09(2); Ord. of 5-22-18(7); Ord. of 3-26-19(1); Ord. of 9-8-20(2))

Sec. 10-3-55.4. Uses permitted by special use permit.

The following uses are permitted by special use permit only:

- (1) Multiple-family dwellings of more than twelve (12) units per building.
- (2) Multiple-family buildings greater than four (4) stories and/or fifty-two (52) feet in height.
- (3) Private clubs and golf courses.

- (4) Retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities), and business and professional offices under conditions set forth in subsections 10-3-55.6(f) and (g) and such other conditions deemed necessary by city council.
- (5) Walls and fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the city council.
- (6) Reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.
- (7) Public uses which deviate from the requirements of title 10, chapter 3.
- (8) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except for towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to two hundred (200) feet in height. Wireless telecommunications facilities are further regulated by article CC.
- (9) Short-term rentals, as further regulated by article DD.

(Ord. of 4-24-07; Ord. of 4-26-11(6); Ord. of 1-8-13(7); Ord. of 9-23-14(6); Ord. of 7-28-15(13) ; Ord. of 7-25-17(1); Ord. of 8-22-17(8); Ord. of 8-22-17(9); Ord. of 3-26-19(1); Ord. of 4-27-21)

Sec. 10-3-55.5. Area and dimensional regulations.

Except as provided in article T, and as required in article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

	MINIMUM FEET					MAXIMUM	
Lot Area Sq. Ft.	*Lot Width	Lot Depth	Front Yard	**Side Yard	Rear Yard	***Stories	***Height
Multifamily: 1,800/unit	60	100	10	10	25	4	52
Multifamily Quadrplex: 12,000/building, 3,000 sq. ft./unit	60 ft./4-unit building, 30 ft./individually subdivided lot	100	10	10	25	3	40
Townhouse: 2,000/unit	18	112	10	10	25	3	40
Other uses: 6,000	60	100	10	10	25	3	40

*Measured at the point of required front setback line.

**See special regulations for attached multifamily dwellings and townhouses in article T.

***The maximum number of stories and/or height of multifamily buildings may be increased by special use permits as set forth in subsection 10-3-55.4(2).

(Ord. of 4-24-07; Ord. of 11-25-08(2); Ord. of 3-13-12(13); Ord. of 7-28-15(14))

Sec. 10-3-55.6. Other regulations.

- (a) Attached or detached private radio and television antennas, including dish antennas, shall not exceed the maximum height otherwise permitted in this district and shall not be permitted in front yards.

Exception: Private amateur radio antennas intended for public service and emergency use may exceed the height otherwise established so long as the height is justified for proper radio communications.

- (b) Off-street parking regulations for all buildings and uses permitted in this district are governed by article G.
- (c) More than one (1) principal building may be constructed upon an unsubdivided parcel of land as density allows. The open space between each building as measured at the closest point between building walls shall not be less than ten (10) feet. The minimum separation between buildings may be superseded by building regulations. The front facade of each principal building shall face a dedicated public street or the limits of a private parking unit (as defined) and no building shall have the rear facade facing a dedicated public street.
- (d) Proposed building projects as permitted in this district, which rely on private refuse collection, shall provide a designated point of collection with appropriate facilities. Said facilities shall be screened and shall meet the requirements for accessory buildings per section 10-3-114.
- (e) Reserved.
- (f) Uses listed in subsection 10-3-55.4(4) shall be integrated into the residential community so as to not adversely affect local traffic patterns and levels and views from surrounding residential areas and public streets. Such integration shall be achieved through effective site planning, compatible architectural design, and landscaping and screening of parking lots, utilities, mechanical/electrical/telecommunications equipment and service/refuse functions. Buildings shall be residential in design and scale with floorplates not exceeding seven thousand five hundred (7,500) square feet.
- (g) Mixed use buildings comprised of nonresidential uses listed under subsection 10-3-55.4(4) and multiple-family dwellings are permitted by special use permit. An area of the building up to the entire first floor may be devoted to nonresidential uses, whatever the size of the building floorplate. The multiple-family dwelling units within mixed use buildings shall be included in the total number of dwelling units in the development and therefore in the calculation of the density for the development. The maximum total number of stories and maximum height of mixed use buildings shall be the same as for buildings comprised entirely of multiple-family dwellings. The standards of subsection (f) shall apply to mixed use buildings, except for the limitations on maximum floorplate.

(Ord. of 4-24-07; Ord. of 3-13-12(14); Ord. of 1-14-14(7); Ord. of 4-27-21)

ARTICLE L. R-6 LOW DENSITY MIXED RESIDENTIAL PLANNED COMMUNITY DISTRICT REGULATIONS

Sec. 10-3-56.1. General.

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the "R-6" Low Density Mixed Residential Planned Community District Regulations.

(Ord. of 10-25-05, § 1)

Sec. 10-3-56.2. Purpose of the district.

This district is intended to provide opportunities for the development of planned residential communities offering a mix of large and small-lot single-family detached dwellings and open spaces, together with certain governmental, educational, religious, recreational and support uses. Innovative residential building types and creative subdivision design solutions are encouraged to promote neighborhood cohesiveness, walkability, connected transportation systems, community green spaces and protection of environmental resources. Communities shall be developed and redeveloped in accordance with a master development plan adopted at the time of rezoning or a subsequent approved amendment thereof. In order to carry out the intent of this article, planned communities developed under these district regulations and the approved master development plan shall achieve the following design objectives:

- (1) A mix of single-family detached residential lot sizes and configurations is provided so as to offer a variety of housing opportunities, yet create a cohesive neighborhood that enhances social interaction.
- (2) Housing is clustered to preserve valuable environmental resources and provide usable recreational open space.
- (3) The open space system is as carefully designed as the housing area so as to offer usable parks, connected green spaces, and village greens and civic spaces visible from roadways and spatially defined by abutting building facades and/or landscape elements.
- (4) Vehicular, pedestrian and bicycle transportation is facilitated through a connected system of roads, sidewalks and/or trails so as to provide many choices with regard to mode and route.
- (5) Traffic calming techniques may be used to reduce vehicle speed and increase pedestrian and bicycle safety.
- (6) Principal buildings address the street, presenting front facades on the publicly visible side of the building.
- (7) The visual impact of vehicular off-street parking and garages on public streetscape views is minimized through innovative site planning and building design, including parking areas located to the rear of buildings, using architectural design elements such as massing, form, materials and fenestration to make garages visually compatible with inhabited buildings, and parking areas screened with landscape elements.
- (8) Neighborhood support uses, such as neighborhood commercial areas, daycare facilities, community centers, churches and schools, are designed so as to be visually compatible with the residential character of the neighborhood and accessible by all transportation modes.

(Ord. of 10-25-05, § 1; Ord. of 3-13-12(15))

Sec. 10-3-56.3. Uses permitted by right.

- (a) Single-family detached dwellings.

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- (b) Home occupations.
 - (c) Community buildings.
 - (d) Public and private schools.
 - (e) Child day care centers.
 - (f) Adult day care centers.
 - (g) Retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities, unless permitted by special use permit), food and drug stores.
 - (h) Governmental, business and professional offices and financial institutions.
 - (i) Churches.
 - (j) Parks.
 - (k) Common open space.
 - (l) Public uses.
 - (m) Accessory buildings and uses customarily incidental to any of the above-listed uses.
 - (n) Dwelling units may be occupied by a single family or not more than two (2) persons, except that such occupancy may be superseded by building regulations.
 - (o) Parking lots and parking garages.
 - (p) Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
 - (q) Homestays, as further regulated by Article DD.

(Ord. of 10-25-05, § 1; Ord. of 2-24-09(3); Ord. of 3-13-12(16); Ord. of 4-24-12(6); Ord. of 5-22-18(8); Ord. of 9-8-20(2))

Sec. 10-3-56.4. Uses permitted only by special use permit.

- (a) Private clubs and golf courses.
- (b) Home for the aged in which three not more than three (3) persons not of the immediate family are provided with food, shelter and care for compensation.
- (c) Major family day home.
- (d) Short-term rentals, as further regulated by article DD.
- (e) Walls and fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the city council.
- (f) Drive-through facility.
- (g) Reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.
- (h) Public uses which deviate from the requirements of title 10, chapter 3.

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- (i) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to two hundred (200) feet in height. Wireless telecommunications facilities are further regulated by article CC.

(Ord. of 10-25-05, § 1; Ord. of 4-26-11(7); Ord. of 3-13-12(17); Ord. of 5-8-12(3); Ord. of 1-8-13(8); Ord. of 9-23-14(7); Ord. of 7-28-15(15) ; Ord. of 8-22-17(10); Ord. of 3-26-19(1))

Sec. 10-3-56.5. Area, density and dimensional regulations.

- (a) Minimum district size: Two (2) contiguous acres, which may include properties located directly across public or private street or alley rights-of-way from one another.
- (b) Maximum density: Six (6) dwelling units per acre.
- (c) Maximum building height: Thirty-five (35) feet (three (3) stories).
- (d) Minimum common open space or park: Fifteen (15) percent.
- (e) Lot area, lot width, lot depth and yards for all uses: requirements as set by the approved master development plan.
- (f) Unless otherwise specified within the master development plan, the provisions of article T, and the regulations in article CC for wireless telecommunications facilities, shall apply to the R-6 zoning district.
 - (1) Proposed building projects as permitted in this district, which rely on private refuse collection, shall provide a designated point of collection with appropriate facilities. Said facilities shall be screened and shall meet the requirements for accessory buildings per section 10-3-114.

(Ord. of 10-25-05, § 1; Ord. of 2-24-09(4); Ord. of 1-8-13(9); Ord. of 1-14-14(8); Ord. of 7-28-15(16))

Sec. 10-3-56.6. Other regulations.

- (a) Attached or detached private radio and television antennas, including dish antennas, shall not exceed the maximum height otherwise permitted in this district and shall not be permitted in front yards.

Exception: Private amateur radio antennas intended for public service and emergency use may exceed the height otherwise established so long as the height is justified for proper radio communications.
- (b) Unless otherwise specified within the master development plan, off-street vehicle and bicycle parking regulations for all buildings and uses permitted in this district are governed by article G.
- (c) At least two (2) types of single-family detached residential lot sizes/configurations shall be provided and no one lot size/configuration type may exceed a total of seventy (70) percent of all the residential units in the community.
- (d) Land area within the planned community shown on the master development plan as dedicated to uses permitted under subsections 10-3-56.3(g) and (h) shall not exceed five (5) percent of the total land area of the planned community. The master development plan shall show how such retail, restaurant and office uses shall be integrated into the residential community so as to not adversely affect local traffic patterns and levels and views from surrounding residential areas and public streets. Such integration shall be achieved through effective site planning, compatible architectural design, and landscaping and screening of parking lots, utilities, mechanical/electrical/telecommunications equipment and service/refuse functions. Buildings shall be residential in design and scale with floorplates not exceeding seven thousand five hundred (7,500) square feet.

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- (e) Applicants for the R-6 zoning district shall submit at rezoning a master development plan, showing and describing in map and text form:
- (1) General layout of roads, housing areas, open space, parks, pedestrian and bicycle trails.
 - (2) General location and number of community building, school, day care, church and public use sites proposed.
 - (3) Description of housing types/lot configurations to be used with lot areas, minimum widths and depths, minimum yards defined.
 - (4) Indication on the master development plan of the general location of housing types/lot configurations proposed.
 - (5) Environmentally sensitive areas: slopes exceeding fifteen (15) percent, streams and 100-year floodplains.
 - (6) Proposed active recreation areas and recreation facilities.
 - (7) Proposed general landscape plan (landscape areas, plant materials and general specifications).
 - (8) Description of how design principles of the district are to be met and proffers, if any, to implement the principles.
- (f) Ownership and maintenance of common open space and other common facilities.
- (1) General requirements:
 - a. *Organization:* A property owners' association shall be established to provide for the ownership, care and maintenance of all common open space areas and other common facilities and improvements.
 - b. *Ownership:* All common open space, facilities and improvements shall be dedicated to the property owners' association. No land within privately owned lots shall be considered common open space.
 - c. *Covenants:* All property owners' associations shall be created by covenants and restrictions recorded among the land records of the City of Harrisonburg. All such covenants shall include provisions for the maintenance of common open space, facilities and improvements.
 - (2) Maintenance requirements:
 - a. *Responsibility:* The property owners' association shall be responsible for the maintenance of all common open space, facilities and improvements in a reasonable condition.
 - b. *Condition:* All open space areas shall be landscaped as shown on the adopted master development plan and shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to and available for use by the residents of the planned community.
- (g) The approved master development plan shall govern development on the site and shall be used as a basis for subdivision and site plan approval and zoning code enforcement.
- (h) The master development plan may be amended after the initial rezoning to R-6. Such amendment is considered an amendment to this ordinance and shall be processed according the regulations under article U.
- (i) The master development plan may be amended solely for a parcel(s) upon application by that parcel's owner, through a zoning map amendment process, subject to determination by the city council that the proposed use and development plan meets all of the requirements of the original master development plan

to an equivalent degree in terms of meeting the purposes of the district and protecting the public health, safety, and welfare.

- (j) For the purposes of provisions subsections 10-3-56.6(g) and (h), the ground dimension of any feature (length, width or area) shown on the master development plan, may vary up to five (5) percent of the scaled dimension provided that a written explanation of the variation, as well as a revised drawing of the master development plan reflecting and designating the refinement is submitted to the zoning administrator by the owner or applicant. Once the zoning administrator determines in writing that the variation conforms to this requirement, the variation becomes part of the approved master development plan. The zoning administrator must make a determination within twenty-one (21) calendar days of receiving the explanation from the applicant or owner.

(Ord. of 10-25-05, § 1; Ord. of 3-13-12(18); Ord. of 1-8-19(2))

ARTICLE L.2. R-7 MEDIUM DENSITY MIXED RESIDENTIAL PLANNED COMMUNITY

Sec. 10-3-57.1. General.

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the "R-7" Medium Density Mixed Residential Planned Community District Regulations.

(Ord. of 10-25-05, § 1)

Sec. 10-3-57.2. Purpose of the district.

This district is intended to provide opportunities for the development of planned residential communities offering a mix of single-family detached and attached dwellings and open spaces, together with certain governmental, educational, religious, recreational and support uses. Under special circumstances, limited multiple-family dwellings may also be included. Innovative residential building types and creative subdivision design solutions are encouraged to promote neighborhood cohesiveness, walkability, connected transportation systems, community green spaces and protection of environmental resources. Communities shall be developed, redeveloped, and amended in accordance with a master development plan adopted at the time of rezoning or a subsequent approved amendment thereof. In order to carry out the intent of this article, planned communities developed under these district regulations and the approved master development plan shall achieve the following design objectives:

- (1) A mix of housing types and residential lot sizes and configurations is provided so as to offer a variety of housing opportunities, yet create a cohesive neighborhood that enhances social interaction.
- (2) Housing is clustered to preserve valuable environmental resources and provide usable recreational open space.
- (3) The open space system is as carefully designed as the housing area so as to offer usable parks, connected green spaces, and village greens and civic spaces visible from roadways and spatially defined by abutting building facades and/or landscape elements.
- (4) Vehicular, pedestrian and bicycle transportation is facilitated through a connected system of roads, sidewalks and/or trails so as to provide many choices with regard to mode and route.
- (5) Traffic calming techniques may be used to reduce vehicle speed and increase pedestrian and bicycle safety.

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- (6) Principal buildings address the street, presenting front facades on the publicly visible side of the building.
 - (7) The visual impact of vehicular off-street parking and garages on public streetscape views is minimized through innovative site planning and building design including parking areas located to the rear of buildings, using architectural design elements such as massing, form, materials and fenestration to make garages visually compatible with inhabited buildings, and parking areas screened with landscape elements.
 - (8) Neighborhood support uses, such as neighborhood commercial areas, daycare facilities, community centers, churches and schools, are designed so as to be visually compatible with the residential character of the neighborhood and accessible by all transportation modes.

(Ord. of 10-25-05, § 1; Ord. of 3-13-12(19))

Sec. 10-3-57.3. Uses permitted by right.

- (a) Single-family detached dwellings.
- (b) Single-family attached dwellings (townhouse dwellings of two (2) to eight (8) dwelling units).
- (c) Multiple-family dwellings with no more than sixty-four (64) units per building under conditions set forth in subsections 10-3-57.6.(c) and (d).
- (d) Home occupations.
- (e) Community buildings.
- (f) Public and private schools.
- (g) Child day care centers.
- (h) Adult day care centers.
- (i) Retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities unless permitted by special use permit) food and drug stores.
- (j) Governmental, business and professional offices and financial institutions.
- (k) Churches.
- (l) Parks.
- (m) Common open space.
- (n) Public uses.
- (o) Accessory buildings and uses customarily incidental to any of the above-listed uses.
- (p) Dwelling units may be occupied by a single family or not more than two (2) persons, except that such occupancy may be superseded by building regulations.
- (q) Parking lots and parking garages.
- (r) Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
- (s) Homestays, as further regulated by Article DD.
- (t) Manufactured homes, provided that the manufactured homes are (i) attached to a permanent foundation, (ii) titled as real estate, and (iii) limited to one manufactured home per lot.

(Ord. of 10-25-05, § 1; Ord. of 2-24-09(3); Ord. of 3-13-12(20); Ord. of 4-24-12(7); Ord. of 5-22-18(9); Ord. of 9-8-20(2); Ord. of 2-28-23)

Sec. 10-3-57.4. Uses permitted only by special use permit.

- (a) Private clubs and golf courses.
- (b) Home for the aged in which three not more than three (3) persons not of the immediate family are provided with food, shelter and care for compensation.
- (c) Major family day home.
- (d) Short-term rentals, as further regulated by Article DD.
- (e) Walls and fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the city council.
- (f) Drive-through facility.
- (g) Reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.
- (h) Public uses which deviate from the requirements of title 10, chapter 3.
- (i) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to two hundred (200) feet in height. Wireless telecommunications facilities are further regulated by article CC.

(Ord. of 10-25-05, § 1; Ord. of 4-26-11(8); Ord. of 3-13-12(21); Ord. of 5-8-12(1); Ord. of 1-8-13(10); Ord. of 9-23-14(8); Ord. of 7-28-15(17) ; Ord. of 8-22-17(11); Ord. of 3-26-19(1))

Sec. 10-3-57.5. Area, density and dimensional regulations.

- (a) Minimum district size: Two (2) contiguous acres, which may include properties located directly across public or private street or alley rights-of-way from one another.
- (b) Maximum density: Fifteen (15) dwelling units per acre.
- (c) Maximum building height: Forty (40) feet (three (3) stories) for all uses except multiple-family dwellings, fifty (50) feet (four (4) stories) for multiple-family dwellings.
- (d) Minimum common open space or park: Fifteen (15) percent.
- (e) Lot area, lot width, lot depth and yards for all uses: Requirements as set by the approved master development plan.
- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in article CC for wireless telecommunications facilities, shall apply to the R-7 zoning district.
 - (1) Proposed building projects as permitted in this district, which rely on private refuse collection, shall provide a designated point of collection with appropriate facilities. Said facilities shall be screened and shall meet the requirements for accessory buildings per section 10-3-114.

(Ord. of 10-25-05, § 1; Ord. of 2-24-09(4); Ord. of 1-8-13(11); Ord. of 1-14-14(9); Ord. of 7-28-15(18) ; Ord. of 1-26-16)

Sec. 10-3-57.6. Other regulations.

- (a) Attached or detached private radio and television antennas, including dish antennas, shall not exceed the maximum height otherwise permitted in this district and shall not be permitted in front yards.

Exception: Private amateur radio antennas intended for public service and emergency use may exceed the height otherwise established so long as the height is justified for proper radio communications.

- (b) Unless otherwise specified within the master development plan, off-street vehicle and bicycle parking regulations for all buildings and uses permitted in this district are governed by article G.
- (c) At least two (2) types of residential housing types (single-family detached of varying lot sizes/configurations, single-family attached, multiple-family) shall be provided and no one housing or lot size/configuration type may exceed a total of seventy (70) percent of all the residential units in the community. Multiple-family units shall not exceed fifty (50) percent of all the residential units in the community.
- (d) Multiple-family development may be approved in an R-7 planned residential community as long as the location of such development is shown on the master development plan and as long as the following conditions are met:
- (1) Adequate vehicular, transit, pedestrian and bicycle facilities currently serve or are planned to serve the site.
 - (2) The applicant has demonstrated that the proposed multifamily development's design is compatible with adjacent existing and proposed single-family detached and attached residential development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family detached and attached residential development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.
 - (3) The applicant has shown that the site is environmentally suitable for multiple-family development. There shall be adequate area within the site to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.
- (e) Land area within the planned community shown on the master development plan as dedicated to uses permitted under subsection 10-3-57.3(i) and (j) shall not exceed ten (10) percent of the total land area of the planned community. The master development plan shall show how such retail, restaurant and office uses shall be integrated into the residential community so as to not adversely affect local traffic patterns and levels and views from surrounding residential areas and public streets. Such integration shall be achieved through effective site planning, compatible architectural design, and landscaping and screening of parking lots, utilities, mechanical/electrical/telecommunications equipment and service/refuse functions. Buildings shall be residential in design and scale with floorplates not exceeding seven thousand five hundred (7,500) square feet.
- (f) Mixed use buildings comprised of retail, office and/or multiple-family dwellings are permitted. The land devoted to such mixed use buildings and the streets, parking and landscape areas serving such buildings, shall be counted toward the maximum area ten (10) percent permitted for uses listed in subsections 10-3-57.3(i) and (j) as regulated by subsection 10-3-57.6(e). The multiple-family dwelling units within mixed use buildings shall be included in the total number of dwelling units in the development and therefore in the calculation of the density for the development.

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- (g) Applicants for the R-7 zoning district shall submit at rezoning a master development plan, showing and describing in map and text form:
- (1) General layout of roads, housing areas, open space, parks, pedestrian and bicycle trails.
 - (2) General location and number of community building, school, day care, church and public use sites proposed.
 - (3) Description of housing types/lot configurations to be used with lot areas, minimum widths and depths, minimum yards defined.
 - (4) Indication on the master development plan of the general location of housing types/lot configurations proposed.
 - (5) Environmentally sensitive areas: slopes exceeding fifteen (15) percent, streams and 100-year floodplains.
 - (6) Proposed active recreation areas and recreation facilities.
 - (7) Proposed general landscape plan (landscape areas, plant materials and general specifications).
 - (8) Description of how design principles of the district are to be met and proffers, if any, to implement the principles.
- (h) Ownership and maintenance of common open space and other common facilities.
- (1) *General requirements:*
 - a. *Organization:* A property owners' association shall be established to provide for the ownership, care and maintenance of all common open space areas and other common facilities and improvements.
 - b. *Ownership:* All common open space, facilities and improvements shall be dedicated to the property owners' association. No land within privately owned lots shall be considered common open space.
 - c. *Covenants:* All property owners' associations shall be created by covenants and restrictions recorded among the land records of the City of Harrisonburg. All such covenants shall include provisions for the maintenance of common open space, facilities and improvements.
- (i) *Maintenance requirements:*
- (1) *Responsibility:* The property owners' association shall be responsible for the maintenance of all common open space, facilities and improvements in a reasonable condition.
 - (2) *Condition:* All open space areas shall be landscaped as shown on the adopted master development plan and shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to and available for use by the residents of the planned community.
- (j) The approved master development plan shall govern development on the site and shall be used as a basis for subdivision and site plan approval and zoning code enforcement.
- (k) The master development plan may be amended after the initial rezoning to R-7. Such amendment is considered an amendment to this article and shall be processed according the regulations under article U.
- (l) The master development plan may be amended solely for a parcel(s) upon application by that parcel's owner, through a zoning map amendment process, subject to determination by the city council that the proposed use and development plan meets all of the requirements of the original master development plan to an equivalent degree in terms of meeting the purposes of the district and protecting the public health, safety, and welfare.

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- (m) For the purposes of provisions subsections 10-3-57.6(g) and (h), the ground dimension of any feature (length, width or area) shown on the master development plan, may vary up to five (5) percent of the scaled dimension provided that a written explanation of the variation, as well as a revised drawing of the master development plan reflecting and designating the refinement is submitted to the zoning administrator by the owner or applicant. Once the zoning administrator determines in writing that the variation conforms to this requirement, the variation becomes part of the approved master development plan. The zoning administrator must make a determination within twenty-one (21) calendar days of receiving the explanation from the applicant or owner.

(Ord. of 10-25-05, § 1; Ord. of 3-13-12(22); Ord. of 1-8-19(3); Ord. of 2-28-23)

ARTICLE L.3. MX-U MIXED USE PLANNED COMMUNITY DISTRICT

Sec. 10-3-58.1. General.

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the "MX-U" Mixed Use Planned Community District Regulations.

(Ord. of 2-24-09(5))

Sec. 10-3-58.2. Purpose of the district.

This district is intended to provide opportunities for the development of planned mixed use communities offering an integrated and compatible mix of residential, commercial and employment uses and open spaces, together with certain governmental, educational, religious, recreational and support uses. Innovative building types and creative subdivision design solutions are encouraged to promote neighborhood cohesiveness, walkability, connected transportation systems, community green spaces and protection of environmental resources. Communities shall be developed and redeveloped in accordance with a master development plan adopted at the time of rezoning or a subsequent approved amendment thereof. In order to carry out the intent of this article, planned communities developed under these district regulations and the approved master development plan shall achieve the following design objectives:

- (1) A mix of uses is provided so that residents can live, work, shop, and carry out many of life's other activities within the neighborhood.
- (2) Uses are well-integrated rather than widely separated and buffered. Compatibility between different uses is achieved through effective site planning and orientation of site and building access and entry, compatible architectural design, and landscaping and screening of parking lots, utilities, mechanical/electrical/telecommunications equipment and service/refuse functions.
- (3) Development is clustered to preserve valuable environmental resources and provide usable recreational open space.
- (4) The open space system is as carefully designed as the development area so as to offer usable parks, connected green spaces, and village greens and civic spaces visible from roadways and spatially defined by abutting building facades and/or landscape elements.
- (5) Vehicular, pedestrian and bicycle transportation is facilitated through a connected system of roads, sidewalks and/or trails so as to provide many choices with regard to mode and route. The proximity and integration of uses allows residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school.

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- (6) The overall intensity of development is designed to be high enough to support transit service.
 - (7) Traffic calming techniques may be used to reduce vehicle speed and increase pedestrian and bicycle safety.
 - (8) Principal buildings address the street, presenting front facades on the publicly visible side of the building.
 - (9) The visual impact of vehicular off-street parking and garages on public streetscape views is minimized through innovative site planning and building design, including parking areas located to the rear of buildings, use of architectural design elements such as massing, form, materials, and fenestration to make garages visually compatible with inhabited buildings, and parking areas screened with landscape elements.

(Ord. of 2-24-09(5); Ord. of 3-13-12(23))

Sec. 10-3-58.3. Uses permitted by right.

[The following uses are permitted by right:]

- (1) Single-family detached dwellings.
- (2) Duplex dwellings.
- (3) Townhouse dwellings (three (3) to eight (8) dwelling units).
- (4) Multiple-family dwellings.
- (5) Dwelling units may be occupied by a single family or not more than two (2) unrelated individuals.
- (6) Home occupations.
- (7) Retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities unless permitted by special use permit), food, and drug stores.
- (8) Governmental, business and professional offices and financial institutions.
- (9) General service or repair shops, providing that all storage and activities are conducted within a building. Examples: cleaning and laundry establishments, tailoring shops, print and copy shops, appliance repairs, upholstery and furniture repairs.
- (10) Theaters, museums and galleries and other places of assembly for the purpose of entertainment or education.
- (11) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities.
- (12) Community buildings.
- (13) Public and private schools.
- (14) Child day care centers.
- (15) Adult day care centers.
- (16) Parks.
- (17) Common open space.
- (18) Public uses.
- (19) Accessory buildings and uses customarily incidental to any of the above-listed uses.

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- (20) Parking lots and parking garages.
 - (21) Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
 - (22) Homestays, as further regulated by Article DD.

(Ord. of 2-24-09(5); Ord. of 3-13-12(24); Ord. of 4-24-12(8); Ord. of 5-22-18(10); Ord. of 9-8-20(2))

Sec. 10-3-58.4. Uses permitted only by special use permit.

[The following uses are permitted by special use permit only:]

- (1) Private clubs and golf courses.
- (2) Home for the aged in which not more than (3) persons not of the immediate family are provided with food, shelter and care for compensation.
- (3) Major family day home.
- (4) Short-term rentals, as further regulated by article DD.
- (5) Drive-through facility.
- (6) Reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.
- (7) Public uses which deviate from the requirements of title 10, chapter 3.
- (8) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rocking-ham Emergency Communications Center up to two hundred (200) feet in height. Wireless telecommunications facilities are further regulated by article CC.

(Ord. of 2-24-09(5); Ord. of 3-13-12(25); Ord. of 1-8-13(12); Ord. of 9-23-14(9); Ord. of 7-28-15(19) ; Ord. of 8-22-17(12); Ord. of 3-26-19(1))

Sec. 10-3-58.5. Area, density and dimensional regulations.

[The following area, density and dimensional regulations apply:]

- (1) Minimum district size: Three (3) contiguous acres, which may include properties located directly across public or private street or alley rights-of-way from one another, unless adjacent to an established MX-U District.

Note: Properties that are not three (3) contiguous acres shall meet all regulations of the MX-U District.

- (2) Maximum density: On average twenty (20) dwelling units per acre.
- (3) Minimum common open space or park: Fifteen (15) percent of the total original tract must be maintained in common open space or parkland. Each individual parcel on the original plan need not meet this requirement. Any tract that may be added to the original tract subsequent to the original zoning approval must have fifteen (15) percent of that particular tract in common open space or park.

- (4) Maximum building height, lot area, lot width, lot depth and yards for all uses: Requirements as set by the approved master development plan.
- (5) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in article CC for wireless telecommunications facilities, shall apply to the MX-U zoning district.
 - (a) Unless modified or superseded by other ordinances which directly apply to the general health, safety and welfare of the public, all accessory storage of products to be processed or being processed, and supplies and waste materials resulting from such work, shall be completely enclosed within structures of permanent and durable construction. In addition, all on-site refuse containers or refuse storage facilities shall be located within a designated area, screened, and meet the requirements for accessory buildings per section 10-3-114.
- (6) Building floorplates: Building floorplates shall not exceed twenty thousand (20,000) square feet, except as approved in the master development plan and subject to the standards in section 10-3-58.6(g).

(Ord. of 2-24-09(5); Ord. of 3-13-12(26); Ord. of 1-8-13(13); Ord. of 1-14-14(10); Ord. of 7-28-15(20))

Sec. 10-3-58.6. Other regulations.

- (a) Attached or detached private radio and television antennas, including dish antennas, shall not exceed the maximum height otherwise permitted in this district and shall not be permitted in front yards.
 Exception: Private amateur radio antennas intended for public service and emergency use may exceed the height otherwise established so long as the height is justified for proper radio communications.
- (b) Off-street parking shall be proposed and shown for all buildings and uses.
 - (1) Off-street parking shall not be located between the street and the front building facade, and preferably sited to the rear of buildings. Off-street parking shall be screened to have minimal impact on the streetscape.
 - (2) Bicycle racks shall be included at appropriate locations and provided at a minimum of one (1) bicycle rack accommodating a minimum of four bicycles for every one hundred (100) off-street parking spaces.
 - (3) Bus shelters shall be provided at designated transit stop locations as specified by the transportation department.
- (c) There shall be adequate area within the site to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.
- (d) *Mix of uses:* The MX-U planned community shall provide a mix of uses meeting the following minimums and maximums:

Land Uses	% of Net Development Area	
	Minimum	Maximum
(1) Parks, common open space (10-3-58.3(16) & (17))	15%	None specified
(2) Retail, service (10-3-58.3(7), (9), (14) & (15))	5%	30%
(3) Employment, office (10-3-58.3(8))	No minimum	30%
(4) Residential (10-3-58.3(1), (2), (3), (4) & (6))	No less than 50%	80%

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(5) Other permitted uses	None specified	None specified
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- (e) At least two (2) types of residential housing types (single-family detached of varying lot sizes/configurations, single-family attached, multiple-family) shall be provided and no one (1) housing or lot size/configuration type may exceed a total of seventy (70) percent of all the residential units in the community.
- (f) Mixed use buildings comprised of retail, office and/or multiple-family dwellings are permitted. The land devoted to such mixed use buildings and the streets, parking and landscape areas serving such buildings, shall be counted toward the maximum area permitted for either retail-service and/or employment-office uses. The multiple-family dwelling units within mixed use buildings shall be included in the total number of dwelling units in the development and therefore in the calculation of the density for the development.
- (g) Buildings having a floor plate larger than twenty thousand (20,000) square feet, but no more than sixty thousand (60,000) square feet, may be approved as part of a master development plan for a MX-U planned community if the applicant demonstrates that the proposed building's design is compatible with adjacent development (contiguous or across the street). Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent residential development and public streets are not dominated by the building, mechanical/electrical and utility equipment, service/refuse functions or associated parking lots or garages.
- (h) Applicants for the MX-U zoning district shall submit at rezoning a master development plan, showing and describing in map and text form:
 - (1) General layout of roads, housing areas, open space, parks, pedestrian and bicycle trails.
 - (2) General location and number of community building, school, day care, church and public use sites proposed.
 - (3) Description of housing types/lot configurations to be used with lot areas, minimum widths and depths, minimum yards defined.
 - (4) Description of all other uses proposed for the MX-U development.
 - (5) Indication on the master development plan of the general location of housing types/lot configurations and other uses proposed.
 - (6) Environmentally sensitive areas: slopes exceeding fifteen (15) percent, streams and 100-year floodplains.
 - (7) Proposed active recreation areas and recreation facilities.
 - (8) Proposed general landscape plan (landscape areas, plant materials and general specifications).
 - (9) Description of how design principles of the district are to be met and other details, if any, to implement the principles.
- (i) Ownership and maintenance of common open space and other common facilities.
 - (1) Unless all real property within the district is owned by a single entity, the following general requirements apply:
 - a. *Organization:* A property owners' association shall be established to provide for the ownership, care and maintenance of all common open space areas and other common facilities and improvements.

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- b. *Ownership*: All common open space, facilities and improvements shall be dedicated to the property owners' association. No land within privately owned lots shall be considered common open space.
 - c. *Covenants*: All property owners' associations shall be created by covenants and restrictions recorded among the land records of the City of Harrisonburg. All such covenants shall include provisions for the maintenance of common open space, facilities and improvements.
- (2) Maintenance requirements:
- a. *Responsibility*: The property owners' association shall be responsible for the maintenance of all common open space, facilities and improvements in a reasonable condition.
 - b. *Condition*: All open space areas shall be landscaped as shown on the adopted master development plan and shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to and available for use by the residents of the planned community.
- (j) The approved master development plan shall govern development on the site and shall be used as a basis for subdivision and site plan approval and zoning code enforcement.
 - (k) The master development plan may be amended after the initial rezoning to MX-U. Such amendment is considered an amendment to this ordinance and shall be processed according to the regulations under Article U.
 - (l) The master development plan may be amended solely for a parcel(s) upon application by that parcel's owner, through a zoning map amendment process, subject to determination by the city council that the proposed use and development plan meets all of the requirements of the original master development plan to an equivalent degree in terms of meeting the purposes of the district and protecting the public health, safety, and welfare.
 - (m) For the purposes of provisions subsections 10-3-58.6(h) and (i) the ground dimension of any feature (length, width or area) shown on the master development plan, may vary up to five (5) percent of the scaled dimension provided that a written explanation of the variation, as well as a revised drawing of the master development plan reflecting and designating the refinement is submitted to the zoning administrator by the owner or applicant. Once the zoning administrator determines in writing that the variation conforms to this requirement, the variation becomes part of the approved master development plan. The zoning administrator must make a determination within twenty-one (21) calendar days of receiving the explanation from the applicant or owner.
- (Ord. of 2-24-09(5); Ord. of 3-13-12(27); Ord. of 5-8-12(2))

Sec. 10-3-59. Reserved.

ARTICLE L.4 R-8 SMALL LOT RESIDENTIAL DISTRICT

Sec. 10-3-59.1. General.

The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this article are the regulations for the "R-8" Small Lot Residential District.

(Ord. of 6-25-19(4))

Sec. 10-3-59.2. Purpose of district.

This district is intended for medium- to high-density residential together with certain governmental, educational, religious, recreational, and utility uses subject to restrictions and requirements necessary to ensure compatibility with residential surroundings. Residential development includes single-family detached, duplex, and in special circumstances townhouse development. Vehicular, pedestrian, and bicycle transportation is facilitated through a connected system of roads, sidewalks, and shared use paths, so as to provide many choices with regard to mode and route, and to provide a safe and comfortable pedestrian environment that promotes walkability for residents and visitors.

(Ord. of 6-25-19(4))

Sec. 10-3-59.3. Uses permitted by right.

The following uses are permitted by right:

- (1) Single-family detached dwellings.
- (2) Duplex dwellings.
- (3) Owner-occupied single-family dwellings, which may include rental of space for occupancy by not more than two (2) persons, providing such rental space does not include new kitchen facilities.
- (4) Nonowner-occupied single-family dwellings, which may include rental of space for occupancy by not more than one (1) person, providing such rental space does not include new kitchen facilities.
- (5) Home occupations.
- (6) Churches and other places of worship.
- (7) Public schools or private school having a function substantially the same as a public school.
- (8) Public uses.
- (9) Parks.
- (10) Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
- (11) Accessory buildings and uses clearly incidental to other permitted uses. (Refer to Section 10-3-114, Accessory Buildings.)
- (12) Homestays, as further regulated by Article DD.

(Ord. of 6-25-19(4); Ord. of 9-8-20(2))

Sec. 10-3-59.4. Uses permitted only by special use permit.

- (1) Attached townhouses of not more than eight (8) units.
- (2) Community buildings.
- (3) Major family day home.
- (4) Child day care.
- (5) Adult day care.
- (6) Short-term rentals as further regulated by Article DD.

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- (7) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to two hundred (200) feet in height. Wireless telecommunications facilities are further regulated by Article CC.
 - (8) Walls and fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the city council.
 - (9) Reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.
 - (10) Public uses which deviate from the requirements of Title 10, Chapter 3.
 - (11) Reduced required side yard setbacks to zero (0) feet where such buildings are single-family detached or duplex dwellings when National Fire Protection Association (NFPA) 13, 13R, or 13D fire sprinkler systems are installed in such buildings or exterior wall(s) adjacent to reduced side yard setback is constructed without openings and has a minimum 1-hour fire resistance rating in accordance with testing standards described in the Virginia Residential Code.
- (Ord. of 6-25-19(4))

Sec. 10-3-59.5. Area and dimensional regulations.

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Table 1. Area and Dimensional Regulations

	MINIMUM FEET					MAXIMUM	
Lot Area Sq. Ft.	*Lot Width	Lot Depth	Front Yard	**Side Yard	Rear Yard	Stories	Height
Single-Family Detached: 2,800	35	60	10	See Table 2	15	3	40
Duplex: 1,800/unit	25/unit	60	10	See Table 2	15	3	40
Townhouse: 1,800/unit	18	60	10	10	20	3	40
Other Uses: 6,000	60	100	10	10	25	3	40

*Measured at the point of required front setback line.

**See special regulations for townhouses in Article T. In addition, side yard setbacks for all uses may be reduced with approval of a special use permit as set forth in subsection 10-3-59.4(11).

Table 2. Minimum Side Yard Setback Requirements for Single-Family Detached and Duplex Dwellings

Number of Stories Above Ground	# Side Yard Setback (ft.)
1-story	7
2-story	7
3-story	10

Side yard setbacks may be reduced with approval of a special use permit as set forth in subsection 10-3-59.4 (11).

(Ord. of 6-25-19(4))

Sec. 10-3-59.6. Other regulations.

- (a) Attached or detached private radio and television antennas, including dish antennas, shall not exceed the maximum height otherwise permitted in all districts and shall not be permitted in front yards.

Exception: Private amateur radio antennas intended for public service and emergency use may exceed the height otherwise established so long as the height is justified for proper radio communications.

- (b) Off-street parking regulations for all new buildings and uses permitted in this district are governed by Article G.
- (c) Only one dwelling unit may be constructed upon each subdivided parcel of land.
- (d) Proposed building projects as permitted in this district, which rely on private refuse collection, shall provide a designated point of collection with appropriate facilities. Said facilities shall be screened and shall meet the requirements for accessory buildings per section 10-3-114.

(Ord. of 6-25-19(4))