

## ARTICLE XVI

### PLANNED UNIT DEVELOPMENT DISTRICT

#### SECTION 16.01 PURPOSE

The intent of Planned Unit Developments (PUD) is to provide a reasonable procedure which will permit greater flexibility and more creative design of various types of development than are possible under conventional zoning regulations. It is the intention of this Article to allow flexible arrangements of land use composition and design in the preparation of site plans without sacrificing the basic principles of sound zoning practice.

- A. TYPE I PUDs. The Type I PUD does not require rezoning, and uses within it are limited to those permitted in the zoning district in which it is located. The permitted uses as established in this Ordinance will define the allowed land uses for designing a combination of uses already permitted in each district without rezoning. This can be done in the form of clustering principal uses and activities at a higher density than would otherwise be possible under zoning district regulations while maintaining the overall density of development within the PUD consistent with the district regulations. In addition, a bonus density is allowed under certain conditions, as defined in Section 16.07.A. and the residential portions of Type II PUD districts. The intent of the bonus density is to encourage developers to provide either additional usable open space or “affordable housing” for the community. Affordable housing is defined as housing priced at a level to meet the needs identified in the South Haven Area CHAT report (Community Housing Assessment Team) of March 2002, or subsequent studies.
- B. TYPE II PUDs. The Type II PUD requires rezoning to combine the planning of land uses and activities from several districts as one project and may include the clustering principle. This PUD District is intended to minimize development impacts upon important environmental natural features, to provide for a more economical arrangement of on-site infrastructure by permitting principal uses to have greater density on one portion of a PUD site while retaining the overall density requirements of the Zoning District, to permit the various Zoning Districts involved to fit the overall plan for the PUD.

*[amended 2006]*

#### SECTION 16.02 PLANNED UNIT DEVELOPMENT TYPES AND PROCEDURES.

The following provisions, regulations and restrictions shall apply:

- A. MINIMUM LOT OR PARCEL SIZE REQUIRED for PUD projects in the various zoning districts shall be:
- 1) RD – 15 acres
  - 2) LDR – 10 acres
  - 3) MDR – 10 acres
  - 4) HDR – 10 acres
  - 5) MFR – 10 acres

- 6) OS – 5 acres
- 7) NSC – 5 acres
- 8) HSC – 5 acres
- 9) CSC – 5 acres
- 10) HC – 5 acres
- 11) I – 5 acres
- 12) When a combination of uses from more than one (1) zoning district is proposed in a PUD (Type II PUD rezoning as in Section 16.01.B.), then:
  - a. The PUD shall be located on a lot of sufficient size to contain all structures, parking, and landscaping buffering required for the most intense development proposed for the site.
  - b. The amount of land required of the total project area and the degree to which the land uses may be mixed is dependent upon the zoning district. The following table describes the extent of mixed use allowed in each district:

DISTRICT	REQUIRED PUD SIZE	% NON-RESIDENTIAL LAND
RD	15 acres	maximum 5%
LDR	10 acres	maximum 15%
MDR	10 acres	maximum 25%
HDR	10 acres	maximum 30%
MFR	10 acres	maximum 30%
OS	5 acres	maximum 50%
NSC	5 acres	maximum 40%
HSC	5 acres	maximum 70%
CSC	5 acres	maximum 100%
HC	5 acres	maximum 100%*
I	5 acres	maximum 100%*

\*residential not allowed

**B. TYPES OF PLANNED UNIT DEVELOPMENTS (PUDs)**

1. A “Type I PUD” is one which can be located in any zoning district upon application to the Township Planning Commission for a PUD project. A Type I PUD includes only those uses permitted in the zoning district in which it is located. This type of PUD requires a public hearing noticed in accordance with Article XXV, Section 25.04, and site plan review and approval by the Township Planning Commission in accordance with Article XXII.

*[amended 2008]*

2. A “Type II PUD” is one which can be located in any zoning district upon application to the Township Planning Commission for a rezoning to a PUD District. A Type II PUD includes uses permitted in the zoning district in which it is to be located, and other uses as permitted in Section 16.02.A(12). This type of PUD requires both rezoning and site plan approval and is subject to the “amending the zoning ordinance” procedure requirements of Article XXV.

*[amended 2006]*

### **SECTION 16.03      GENERAL PROVISIONS**

- A.     CONTINUING APPLICABILITY OF INFORMATION ON APPROVED SITE PLANS  
The location of all uses and buildings, all uses and combinations thereof, all yards and transition strips, and all other information shown on or part of a site plan which is approved shall be binding upon the owners and persons in control of the property at the time of approval, and upon their successors. Complete compliance with an approved site plan shall be the continuing obligation of the applicants, owners, occupants and persons in control of the property within a PUD, and of any subsequent owners, occupants and persons in control of property in a PUD project or parts thereof and shall not be changed or altered except with the approval of a site plan amendment as set forth in this Article. The approved plan(s) and any conditions attached thereto shall control subsequent development and use of the property. Land that has been approved as a PUD project shall not thereafter be developed or used except in accordance with the approved site plan and approved amendments thereto.
  
- B.     CONSTRUCTION - No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued therefore, on a lot width, or under petition for, a PUD project, until the requirements of this Article have been met.
  
- C.     PERFORMANCE GUARANTEES – Performance guarantees may be required for all public and common improvements in developments and in phases of developments on a per phase basis and shall be required where building permits are desired before all infrastructure is completed. Cost levels to be used in setting dollar amounts shall be based upon the findings regarding estimated cost as reported by the Township Engineer, Public Agency or PUD Engineer.

*[text amended 2006]*

### **SECTION 16.04      PRE-APPLICATION CONFERENCE**

- A.     An applicant for a PUD project may request a pre-application conference with Township officials prior to filing an application for developing a PUD project. The request shall be made to the Township Zoning Administrator who shall set a date for the conference and shall inform members of the Township Board and other Planning Commission members of the conference and invite their attendance. The Township Zoning Administrator shall also invite other officials who might have an interest in the proposed development, or who might assist the Township in the review process.
  
- B.     The purpose of the conference shall be to inform Township and other officials of the concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the Township and other agencies. The applicant is encouraged to present schematic plans, site data and other information that will explain the proposed development.

- C. Statements made in the conference shall not be legally binding and shall not result in any commitments.  
*[text amended 2006]*

## **SECTION 16.05 SITE PLAN REQUIREMENTS**

A site plan shall be submitted for approval for each phase of development. Preliminary site plans shall be submitted and reviewed in accordance with, and shall meet all provisions of Article XXII, "Site Plan Review."

The Planning Commission shall require the applicant to provide housing and commercial market analyses, traffic studies, and other information necessary for the Commission to properly and adequately analyze a PUD project request for recommendation to the Township Board.

To that end, an impact assessment shall be prepared by the applicant and submitted to the Planning Commission concurrently with the site plan. This document shall be prepared in narrative form, with such accompanying charts, graphs, maps and/or tables as may prove necessary. Topics to be addressed shall include community impacts (i.e., additional traffic likely to be generated per 24 hour period, directional distribution of trips generated by the proposed development, additional police and fire service needs to be anticipated) and environmental impacts (i.e., soils to be found on the site, site topography, natural features of note that are located on the site and how each would be impacted by the proposed development).

*[amended 2006]*

## **SECTION 16.06 SITE PLAN: ADMINISTRATIVE REVIEW PROCEDURE**

- A. An application for a PUD project shall be made by the owner(s) of record of the subject parcel. The applicant shall provide evidence of full ownership over the signatures of all owners of all land in a PUD or execution of a binding or conditional sales agreement, prior to receiving a recommendation of approval of the application and site plan by the Township Planning Commission.
- B. The application shall be filed with the office of the Zoning Administrator, who shall check it for completeness in accordance with this Zoning Ordinance, discuss it with the applicant, and transmit the application and the site plan to the Township Planning Commission. The application shall be filed, if complete, with the Zoning Administrator at least two (2) weeks prior to the Planning Commission meeting.
- C. The Township Planning Commission shall hold a public hearing on the application site plan, and supporting information.
1. The public hearing for a Type I PUD shall follow the same procedures as that required in Article XV, Special Uses.
  2. The public hearing for a Type II PUD shall follow the same procedures as that required in Article XXV, Amending the Zoning Ordinance and Map.
- D. At the public hearing, the applicant shall present evidence regarding adherence to all pertinent standards and requirements of this Zoning Ordinance. The applicant may

submit information in the form of maps, charts, reports, models and other materials, and/or in the form of testimony by professional experts who can clearly state the full nature and extent of the proposal. Complete sets of plans and supporting information shall be submitted with the application in a sufficient number of copies, but not less than fifteen (15) copies, for review by each member of the Planning Commission, the Zoning Administrator and other Township officials. Materials submitted shall include the required site plan and any required supplementary sources of information necessary to satisfy Section 16.06 and Article XXII, Site Plan Review Procedures..

- E. The Planning Commission shall undertake a study of the application and site plan and, in the case of a Type II PUD, shall submit a report of its recommendations after public hearing to the Township Board. The report for a Type II PUD shall contain the Planning Commission's analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendation for approval, approval with conditions, or denial with reasons stated in the official minutes of the Planning Commission. Materials and the information to be considered in this study and review process shall include input from such agencies as the Sewer and Water Authority, County Health Department, County Road Commission and/or Michigan Department of Transportation, County Drain Commissioner, Michigan Department of Environmental Quality, among other County, State, Township and local public agencies having public interest responsibility in the PUD development project..
- F. For the Type II PUD, after making its recommendations to the Township Board, the Planning Commission shall transmit the PUD to the Van Buren County Planning Commission if amendments to the Zoning Ordinance text or Zoning District Map are required, for its approval, approval with conditions or disapproval as its recommendation to the Township Board.
- G. For Type II PUDs, the Township Board shall review the application and site plan and the Township and County Planning Commission's recommendations thereon, and shall approve, or deny approval of the application and site plan. Major changes in the application or site plan desired by the Township Board shall be referred to the Township Planning Commission for review and recommendation prior to the Township Board action thereon. If the Township Board disagrees with the Planning Commission recommendation, it shall refer the matter back to the Planning Commission for additional consideration before denying its approval of a Type II PUD. The Township Board may attach conditions to its approval of a Type II PUD proposal without referring the proposal back to the Planning Commission if those conditions are not major changes to the approval.
- H. For either a Type I or a Type II PUD, if the application and site plan are approved by the Township, the applicant and all owner(s) of record of all property included within the PUD shall sign a statement that the approved application and area plan shall be binding upon the applicant and owner(s) of record or their assigned agent(s) and upon their heirs, successors, and assigns, unless future changes mutually agreed to by an future Township Board and future applicant and owner(s) of record or the assigned agent(s) of their heirs, successors and assigns.

**SECTION 16.07 TYPE I PUD PROJECTS AND RESIDENTIAL TYPE I BONUS**

A. The clustering of principal and accessory structures shall be permitted provided that the overall density of dwelling units or lot coverage by commercial or industrial buildings which can be placed upon a lot or parcel of land shall not be exceeded, and each setback requirement shall not be reduced by more than thirty (30) percent, except as otherwise provided for in the Ordinance and except that overall lot coverage requirements and project and/or development front, rear and side yard setback requirements or those specified in this Article shall be met.

Type I PUD projects shall include:

1. Residential condominium subdivision or site condominiums limited solely for residential uses in appropriate residential zoning districts.
3. Commercial shopping centers, condominium subdivisions or site condominiums limited solely for commercial uses in appropriate commercial zoning districts.
4. Condominium conversions of existing commercial buildings in appropriate commercial districts.

B. Bonus density for Residential Type I PUD projects and residential portions of Type II PUD districts: The intent of this provision is to provide developers with an economic incentive to create affordable housing and/or open space available for recreational uses.

1. The overall density of a Residential Type I PUD project or a residential portion of a Type II PUD, may exceed the LDR, MDR, HDR and MFR zoning district densities or dwelling units per acre of developable land contained in a parcel of land by no more than 25%, as set out below:

District	Density	Bonus (maximum density)
LDR	2.18	2.73 dwelling units per net developable acre of land
MDR	2.90	3.63 dwelling units per net developable acre of land
HDR	4.36	5.45 dwelling units per net developable acre of land
MFR	8.00	10.00 dwelling units per net developable acre of land

Developable land is defined for the purpose of this Section as the total gross acreage of the parcel of land less any areas shown on a Flood Insurance Rate Map as a Zone A or Zone B; a State of Michigan Designated and Critical Sand Dunes Areas map as a Critical Dune Area; a State of Michigan High Risk Erosion Area Map as a High Risk Erosion Area; a National Wetland Inventory map and meeting the State of Michigan requirements for a regulated wetland; or lake or pond over five (5) acres in area.

2. Requirements for a Residential Type I PUD project density bonus:  
To the extent possible, open space shall be continuous throughout the development. In order to qualify for the bonuses listed in 1 above;

- a. The development shall set aside at least 10% of the total land area (excluding any water surface areas) as permanent “Open Space” or recreational area/space. At least 1/3 or the 10% open space area shall be set aside as a separate area capable of being developed for a PUD recreation area for the location of a future pool, children’s play area, non-commercial sports field/court, picnic area, or other possible social needs of the residents of the development. The remaining 2/3’s of the 10% open space area shall be located in areas reasonably accessible to residents of the PUD and shall be configured so that they are usable. Street rights-of-way, driveways and parking areas shall not be considered open space.
- b. The area to be developed for a Residential PUD project must be served by municipal sanitary sewer and water utilities.

*[new section added 2006]*

**SECTION 16.08 SUPPLEMENTARY DEVELOPMENT STANDARDS AND REGULATIONS**

The following requirements expand upon and are in addition to the requirements detailed in Article XXII, Site Plan Review Procedures. They shall, in all cases, be adhered to by developments in a PUD project.

**A. EXTERNAL AND INTERNAL CIRCULATION AND ACCESS**

1. All PUD development projects shall be restricted to sites having access to a hard surface paved roadway and accepted and maintained by the Van Buren County Road Commission or the Michigan Department of Transportation.
2. Access points to a PUD project shall be located to meet current state fire code requirements, and State Department of Transportation or Van Buren County Road Commission spacing requirements. In no case shall any access point of ingress or egress be closer than thirty-five (35) feet from either side lot line of the parcel, nor less than 150 feet from the centerline of a cross-street or driveway on an adjacent parcel.
3. Each lot or principal building shall have internal vehicular access from a public street or private street approved by the Township Board.
4. Public and private streets shall be designed and constructed according to standards for public streets as established by the Van Buren County Road Commission except that such standards may be modified as provided in South Haven Township Ordinance Number 33, Public & Private Roads, Section III, Administration, B. Private Roads & Streets, 1. Approving Authority. Right-of-way standards may also be modified, especially where the site plan provides for separation of pedestrian and vehicular traffic and adequate off-street parking facilities. Modifications of proposed public streets shall first be approved by the County Road Commission Engineer.

## B. OPEN SPACE REGULATIONS

1. In a Type II PUD zoning district, a land, water or land/water area constituting not less than twenty-five (25) percent of the total (a) land area, or (b) land area, plus no more than three hundred (300) feet into or no more than one-half (1/2) the width or distance across a natural surface water area of a waterfront parcel, shall be designated as permanent open space.

In a Type I PUD project, the required open space shall not constitute less than ten (10) percent of the total land area as calculated above in Section 16.08.B.1(a) or (b). The required open space area shall be developed according to the approved site plan and may never be changed to any other use. Further, the site plan and master deed or plat restrictions or other conveyance must provide that the open space is for the use and enjoyment of the residents, occupants and users of the district and such open space shall be considered as an integral component of the over-all PUD.

The developer shall provide for perpetual and mandatory maintenance of the open space through the use of deed restrictions or other permanent assurances in a form approved by the Township which shall provide for participation in said maintenance cost by each occupant or resident (residential or commercial) within the PUD.

All areas mapped as Special Flood Hazard Areas or areas identified as regulated wetlands shall be included in the permanent open space even if such areas exceed the required percent of property to be set aside as open space. A Special Flood Hazard Area map can be revised or amended to allow development as provided in Part 3091 of Michigan Public Act 451 of 1994, and related rules.

2. Buildings, parking lots, drives and similar improvements may be permitted in open space areas if related and necessary to the functions of the open space. Other building and improvements shall be prohibited therein.
3. Open space areas shall be conveniently located in relation to dwelling units and functions intended.
4. Open space areas shall have minimum dimensions which are usable for the functions intended and which will be maintainable.
5. The Township Board may require upon recommendation of the Planning Commission, that unique natural amenities such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unusual wildlife habitats, ponds, streams, and marshes be preserved as part of the open space system.

## C. LANDSCAPING AND PARKING

1. The parking and loading requirements set forth in Article XX, Off-Street Parking herein, shall apply except that the number of spaces required may be reduced if approved by the Township Board, upon recommendation of the Planning Commission, (pursuant to the requirements detailed in Article XX) as part of the site plan. Such reduction shall be based upon specific findings.
2. A landscaped strip no less than twenty (20) feet in width shall be required when a free-standing physical structure containing a commercial and/or office use is located adjacent to a residential use. The strip shall be located between the two uses and shall be landscaped with trees and ground cover.

#### D. UTILITIES

1. Each principal building shall be connected to public or common water and sanitary sewer lines or to on-site facilities approved by the Township Board.
2. All development shall be required to provide adequate fire protection system as determined and approved by the Township Fire Department and Township Board. In all cases where an on-site system is proposed, detailed drawings, plans and/or other background materials as well as written approval from the appropriate county or state agencies shall be presented to the Planning Commission before action can or will be taken on any PUD request.

Maintenance of any and all approved common on-site systems shall be ensured by use of deed restrictions which shall provide for participation in maintenance costs by each owner of the planned unit development served by such a system.

3. Each site shall be provided with adequate storm drainage. Open drainage courses and storm water retention ponds may be required.
4. Electrical, telephone, and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the final site plan and shall be screened from view.
5. Standard sidewalks and/or a system of street lights may be required of developments in the PUD district. Maintenance of either shall be ensured through implementation of a system of deed restrictions providing for participation in maintenance costs by all owners of the development.

#### E. SITE DESIGN, LAYOUT AND DENSITY CRITERIA

1. All density requirements shall be completed on a total gross area basis, less water area, unless the water area is completely enclosed on the parcel. When the question of **maximum density** arises, it shall be the responsibility of the applicant to demonstrate that the proposal complies with the density requirements of the PUD project (rezoning or special use). To that end, the

applicant shall prepare a comparison site plan sketch demonstrating the layout of the maximum number of individual parcels that could be created on the developable portion of the land that meet the zoning requirements of the zoning district if the PUD were not created. The density of the proposed development shall be calculated based upon an approved comparison sketch plan. The comparison site plan sketch may ignore topography but shall not include any land area below the Special Flood Hazard Area limit of Lake Michigan.

2. Existing natural water areas (i.e., streams, ponds, lakes and/or similar water bodies) may be included in density calculations up to 300 feet of their surface width as measured from the shoreline, or where such water areas are proposed for construction by the applicant, fifty (50) percent of the total water area to be constructed may be included in density calculations, but in no case shall the included surface water area exceed 20% of the total land area of the PUD or any single or combination of phases of the PUD.
3. Residential areas may contain several different types of dwelling units if it can be demonstrated to the satisfaction of the Planning Commission that the proposed combination by type will not interfere with the reasonable division of any areas intended to be subdivided.
4. All principal buildings and all accessory buildings or structures shall be located at least fifty (50) feet from any exterior public roadway right-of-way line, private road and/or area to be platted.
5. The outdoor storage of goods and materials shall be prohibited in the PUD project unless permitted in the underlying zoning district.

F. LEGAL MECHANISMS TO ENSURE FACILITY AND OPEN SPACE MAINTENANCE

1. Legal instruments setting forth the manner of permanent maintenance of common area and facilities shall be submitted to the Township Attorney for review before the Township Board approves a final site plan or final plat.
2. Where a Home Owners Association (HOA) or an Association of Commercial Establishments (ACE) or Association of Industrial Establishments (AIE) is to be used to maintain common area and facilities, the developer shall file a declaration of covenants and restrictions that will govern the HOA, ACE or AIE with the site plan. The provisions shall include, but shall not be limited to, the following:
  - a. The HOA, ACE, or AIE shall be established before any building or structure in the "PUD" are sold or occupied.
  - b. Membership in the HOA, ACE, or AIE shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the covenants.

- c. Restrictions shall be permanent.
- d. The HOA, ACE, or AIE shall be made responsible for liability.
- e. Building unit owners shall pay their pro rata share of the costs and this requirement shall be specified in the covenants. Assessments levied by the HOA, ACE, or AIE may become a lien on the individual properties.

G. PROJECT PHASING

- 1. If the proposed development is to be constructed in phases, a narrative description of that phased process that describes all work to be done in each phase shall be submitted to the Planning Commission when the site plan is submitted.
- 2. A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services, and open spaces and recreation facilities.

*[section revised and amended 2006]*

**SECTION 16.09 STANDARDS FOR REVIEW** *[section re-numbered 2006]*

The Planning Commission shall determine and shall provide evidence in its report to the Township Board to the effect that the application, site plan and supplementary informational materials submitted by the applicant meet the following standards:

- A. The proposed development shall conform to the Township Master Plan or any part thereof, or represents land use policy which, in the Planning Commission's opinion, is a logical and acceptable change in the adopted Township Land Use Plan.
- B. The proposed development shall conform to the intent and all regulations and standards of a "PUD" District.
- C. The proposed development shall be adequately served by public facilities and services such as: highways, streets, sidewalks, street lights, police and fire protection, drainage courses, water and sanitary sewer facilities, refuse disposal; or that the persons or agencies responsible for the proposed development shall be able to properly provide such facilities and services.
- D. Common open space, other common properties and facilities, individual properties, and all other elements of a "PUD" are so planned that they will achieve a unified open space and recreation area system, with open space and all other elements in appropriate locations, suitably related to each other, the site and surrounding lands.

- E. The applicant shall have made provision to ensure that public and common areas will be or have been irrevocably committed for that purpose. Provisions shall have been made to provide for financing of improvements shown on the plan for open space and other common areas and facilities, and that proper maintenance of such improvements is ensured.
- F. Traffic to, from, and within the site will not be hazardous or inconvenient to the project or to the surrounding area. In applying this standard the Planning Commission shall consider, among other things, convenient routes for pedestrian traffic; relationship of the proposed project to main thoroughfares and street intersections; and the general character and intensity of the existing and potential development of the surrounding area.
- G. The mix of housing unit types and densities, and the mix of residential and non-residential uses shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.
- H. The Planning Commission shall determine, where applicable, that noise, odor, lighting, or other external effects which are connected with the proposed use, will not adversely affect adjacent and surrounding area lands and uses.
- I. The proposed development shall create a minimum disturbance to natural features and land forms.
- J. Streets shall follow topography, be properly spaced, and be located and aligned in accordance with the intended function of each street. The property shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable.

**SECTION 16.10 AMENDMENTS TO SITE PLAN** *[section re-numbered 2006]*

Preliminary and final site plans may be amended in accordance with the process detailed in Section 22.11 of Article XXII, “Site Plan Review.”

**SECTION 16.11 SUBDIVISION PLATS** *[section re-numbered 2006]*

The Township Board shall have the authority to deny or table an application for tentative approval of a preliminary plat if, in its opinion and after a report thereon from the Planning Commission, such plat will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, roads, utilities, and schools.

**SECTION 16.12 EXTENSION OF TIME LIMITS** *[section re-numbered 2006]*

Time limits set forth in Article XXII, “Site Plan Review” may be extended upon showing a good cause, and by written agreement between the applicant and the Planning Commission.

**SECTION 16.13      PERFORMANCE GUARANTEES**      *[section re-numbered 2006]*

Performance guarantees shall be provided in accordance with Section 22.16 of Article XXII, “Site Plan Review.”

**SECTION 16.14      VIOLATIONS**      *[section re-numbered 2006]*

Violations shall be dealt with in the manner detailed in Section 22.17 of Article XXII, “Site Plan Review.”