

**Town of Wheatfield
Zoning Law Amendment
Re: Planned Unit Development – Section 5**

SECTION 5 – PLANNED UNIT DEVELOPMENT (PUD)

5.1 INTENT

The intent of the Planned Unit Development (PUD) section is to provide greater flexibility leading to more innovative design, creative use mixes, and layout of developments than what is normally possible under conventional zoning districts and which offer the potential for a sustainable development.

5.2 OBJECTIVES

In order to carry out the intent of this section, a PUD shall achieve the following objectives:

1. Encourage land development that preserves the natural landscape and existing vegetation to the greatest extent possible;
2. Reduce impacts to environmentally, historically and culturally sensitive areas;
3. Provide for the preservation and creation of open spaces, recreational spaces and other public spaces and make them accessible to residents;
4. Allow for a variety of housing types and densities, neighborhood retail and services establishments, and public and recreational facilities to coherently exist within the same development as a community;
5. Promote the efficient use of land resulting in networks of streets, utilities and other infrastructure features;
6. Ensure that the development is compatible with surrounding uses and reduces spillover impacts; and,
7. Promote the objectives of the Town of Wheatfield Master Plan.

5.3 GENERAL

The creation of a PUD shall be subject to the approval of the Town Board based upon the review and recommendations of the Planning Board and upon the results of a public hearing. This will follow the process required for rezoning.

In a PUD, the use and dimensional specifications found elsewhere in this Zoning Law are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls. The uses determined by an approval process for a PUD are subject to other non-dimensional provisions of this Zoning Law, such as, but not limited to, supplementary, off-street parking,

loading, and stacking and sign regulations. The PUD plan as approved shall represent the zoning of the property, and any proposed changes in the uses or layout of uses would require rezoning to a modified PUD designation (following all of the requirements of this law).

5.4 REGULATIONS

A. Location

The Planned Unit Development District shall be applicable to any area of the Town of Wheatfield where the applicant can demonstrate that the characteristics of his development will satisfy the objectives of this section.

B. Minimum Area

A PUD shall include no less than twenty (20) acres of contiguous land.

C. Ownership

The tract of land proposed to be rezoned to a PUD may be owned, leased, or controlled either by a single person, a corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all properties included in the project. In the case of multiple ownership, the approved plan shall be binding on all owners.

D. Open Space

A minimum of twenty-five percent (25%) of the site shall be reserved as common open space, including pedestrian and bicycle facilities, parks and recreation areas, and public plazas and landscaped areas. Road and utility rights-of-way, driveways, parking areas and private lawn areas shall not be considered in calculating open space. Wetlands, floodways and other non-buildable areas are typically not considered as part of the required open space requirements. If properly integrated into the site planning and incorporated into a passive recreational feature (walkways, etc.) these could be included in the 25% requirement.

E. Common Property

Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, for which the use and enjoyment of is shared by the owners and occupants of the individual building sites. The applicant shall provide for and establish an organization for the ownership and maintenance of any common property. Such organization shall not be dissolved nor shall it dispose of any common property by sale or otherwise.

F. Permitted Uses

The following are permitted uses within a Planned Unit Development District:

1. Dwelling units that are detached, semi-detached, attached, clustered, multi-storied, or a combination thereof;
2. Retail and personal service business establishments, not to exceed 7,500 square feet of gross floor area, which provide neighborhood services and are in scale and character with the PUD in which it is located. Businesses that are permitted within a PUD include, but are not limited to, the following:
 - a. Stores selling groceries;
 - b. Bakeries and coffee shops;
 - c. Drugstores and convenience stores;
 - d. Gift shops;
 - e. Barber and beauty shops; and
 - f. Administrative, professional, or executive offices.

Uses not permitted include, but are not limited to, the following:

- a. Automotive uses; and
- b. Industrial uses.
3. Public and recreational facilities.
4. Accessory uses and structures typically associated with these uses.

G. Density

Gross densities for residential land uses shall not exceed those set forth under R-3 Residential District of this Zoning Law. The Town Board may, based upon the project's degree of innovation and design excellence, and the Planning Board's recommendation, permit an increase in overall density up to, but not exceeding, thirty percent (30%) of that permitted in the R-3 Residential District. In no case, shall the minimum amount of required open space be reduced to allow for the maximum allowable density.

5.5 PROCEDURES

Prior to any subdivision plat, or any part thereof, for a PUD being filed in the office of the Niagara County Clerk and before any construction or site improvement work or permit for erection of permanent buildings in such Planned Unit Development can be granted, the developer, or his authorized

agent, shall apply for and secure approval of such PUD in accordance with the following procedures:

A. Pre-Application Conference

To avoid delays and to allow the Planning Board to advise the applicant of potential concerns that should be addressed with the preliminary site plan, it is suggested that the applicant confer informally with the Planning Board regarding basic concepts of the proposed PUD, including rough sketches and tabulations, prior to submitting preliminary site plans.

B. Application for Planned Unit Development

The Town Board shall collect a fee, to be determined by the Town Board, for the review of the PUD rezoning application. In addition, site plan and/or subdivision review fees shall be required, as appropriate.

C. Preliminary Site Plan

A preliminary site plan shall be prepared, as outlined in Article XII of the Zoning Law, and accompany any application for a PUD. Five (5) copies of the preliminary site plan shall be submitted to the Planning Board, accompanied by the following information and/or documents:

1. Discussion of how the development meets the goals of the Town of Wheatfield Master Plan and Greenspace Plan;
2. Discussion of how the development meets the intent and objectives of the PUD section, as outlined in 5.1 and 5.2;
3. Description and location of all environmentally, historically and culturally sensitive areas on the property;
4. A calculation of the required amount of open space and requested residential density;
5. The location, size and type of the various land uses proposed for the development;
6. Identification and discussion of the innovative design and layout features that warrant a potential increase in density;
7. Documentation that explains the density that would be allowed under the existing traditional zoning district;
8. A statement of how common open space will be owned and maintained;
9. If the development is to be phased, a phasing plan. Whether or not the project is to be phased, the preliminary site plan shall show the intended total project;

10. Evidence of any sort in the applicant's own behalf to demonstrate his competence to carry out the plan to completion and his awareness of the scope of such a project, both physical and financial; and,
11. A completed Part I of the Full Environmental Assessment Form (EAF).

D. Planning Board Action on Preliminary Site Plan

Prior to taking action on the preliminary site plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report, if required. The Planning Board shall review the preliminary site plan and related documents and, within sixty-two (62) days of submission, shall submit a recommendation to the Town Board that the application be approved, approved with conditions, disapproved, or modified and resubmitted.

A recommendation for approval or approval with conditions by the Planning Board shall be based on the following:

1. The application conforms with the Town of Wheatfield Master Plan;
2. The application meets the intent and objectives of the PUD section as outlined in 5.1 and 5.2;
3. The application meets all the regulations for a Planned Unit Development outlined in 5.4;
4. The application includes all the requirements of a Planned Unit Development outlined in 5.5- C.;
5. The application is conceptually sound;
6. There are adequate services and utilities available to serve the development, or can be made available with costs incurred by the developer.

A recommendation that the application be disapproved should be filed with the Town Clerk and accompanied with a description of the reasons for such denial and a copy thereof mailed to the applicant. A recommendation that the application be modified and resubmitted should be accompanied with a description of what changes should be made to the application.

If, in any such evaluation, the Planning Board finds that any submission requirements prescribed by this Zoning Law are inapplicable because of unusual conditions of the Planned Unit Development, or the nature and quality of the proposed design and layout, it may recommend to the Town Board that an adjustment in such requirements be made.

E. Town Board Action on Preliminary Site Plan

The determination of the Town Board to approve, approve with conditions, disapprove, or request modifications to the application for a PUD, or adjust any requirements or regulations, shall be based on its review of the preliminary site plan and related documents, the Planning Board's recommendations, and matters brought forth at a public hearing. The Town Board may, if it feels it necessary in order to protect the public health, safety, and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. The Town Board shall, at this time, approve the density standards for the development.

An action by the Town Board disapproving the application should be filed with the Town Clerk and accompanied with a description of the reasons for such denial and a copy thereof mailed to the applicant. An action that the application be modified and resubmitted should be accompanied with a description of what changes should be made to the application.

F. Zoning

Upon approval or approval with conditions of an application for a PUD by the Town Board, the property in question shall be deemed rezoned as a Planned Unit Development District, and the Zoning Map shall be noted to reflect the change in zoning.

G. Final Site Plan

Following the approval of the preliminary site plan for a PUD by the Town Board, a final site plan shall be prepared, as outlined in Article XII of the Zoning Law, and five (5) copies shall be submitted to the Planning Board. The final site plan shall substantially conform to the preliminary site plan, incorporating any modifications, conditions, or other features recommended by the Planning Board and/or Town Board. For subdivisions, the final site plan shall conform to the Town Subdivision Regulations.

H. Phasing

If the PUD is to be implemented in phases, then the applicant may submit a final site plan showing only those phases he wishes to develop. Any PUD that requires more than twenty-four (24) months to be completed, shall be required to be phased, and a phasing plan must be developed.

Each phase shall be provided with temporary or permanent transitional features, buffers, turn-arounds, or protective areas in order to prevent

disruptions and damage to completed phases, to future phases, and to adjoining property.

It is the intent of these phasing regulations that individual phases of the PUD will have adequate provisions for access, parking, open space, recreational areas, stormwater management facilities and other improvements so that, if for any reason, the entire PUD is not completed, those portions of the development already constructed would be sufficiently served and be an asset to the community.

I. Planning Board Action on Final Site Plan

The Planning Board shall review the final site plan and related documents and, within sixty-two (62) days of a complete submission, shall submit a recommendation to the Town Board that the application be either approved or disapproved. The applicant shall also be notified at this time of the Planning Board's recommendation. In determining its action, the Planning Board may seek advice and assistance from such sources as the Town Attorney, Town Engineer, Town Building Inspector, Town Planning Consultant and Town Highway Superintendent.

J. Town Board Action on Final Site Plan

Within sixty-two (62) days of receiving a recommendation from the Planning Board, the Town Board shall either approve or disapprove the final site plan. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board. The basis for such a decision shall be the conformance of the final site plan to the approved or modified preliminary site plan and conformance with the requirements and regulations of this section.

If the Town Board determines that the final site plan does not comply with the requirements and regulations of this section, then the record of such determination shall be filed with the Town Clerk and delivered to the applicant accompanied by a separate statement setting forth in detail the exact nature of such noncompliance and all other factors included in the basis for the Town Board's decision.

5.6 OTHER REGULATIONS

A. Subdivision Review

Planned Unit Development site plan review, under the provisions of this section, shall suffice for Planning Board and Town Board review and approval of subdivisions, subject to the following conditions:

1. The applicant shall prepare sets of subdivision plats suitable for filing with the County Clerk and which satisfy all plat requirements in the

Town Subdivision Regulations, in addition to the drawings required above; and,

2. If the PUD is being developed in phases, it may be platted and filed in corresponding components.

B. Regulation After Initial Construction and Occupancy

For purposes of regulating the development and use of property after completion of initial construction and occupancy, any changes shall be processed as a Special Permit, as outlined in Article III, Section 10.

C. Commencement of Construction

No construction or site improvement work may commence until site plan approval has been granted.

D. Financial Responsibility

No building permits shall be issued for construction within a PUD until the required improvements are installed or, alternatively, a performance bond or a letter of credit is provided in accordance with the procedures outlined in the Town Subdivision Regulations.