

**AGENDA  
CITY OF SWARTZ CREEK  
PLANNING COMMISSION  
PAUL D. BUECHE MUNICIPAL BUILDING  
VIRTUAL (ZOOM) MEETING AVAILABLE FOR GENERAL PUBLIC  
TUESDAY, JUNE 6, 2023, 7:00 P.M.  
CALL TO ORDER:**

**1. PLEDGE OF ALLEGIANCE:**

**2. ROLL CALL:** Binder, Branoff, Campbell, Currier, Grimes, Henry, Krueger, Sturgess, Wyatt

**3. APPROVAL OF AGENDA:**

**4. APPROVAL OF MINUTES:**

**5. CORRESPONDENCE:**

- A. Resolutions
- B. Minutes: May 2, 2023
- C. Zoning Amendment Draft: Article 7 PUD

**6. MEETING OPENED TO PUBLIC (NON-PUBLIC HEARING ITEMS):**

**7. BUSINESS:**

- A. Planned Unit Development Amendment Public Hearing

**8. MEETING OPENED TO THE PUBLIC:**

**9. REMARKS BY PLANNING COMMISSION MEMBERS:**

**10. ADJOURNMENT:**

**RESOLUTIONS  
CITY OF SWARTZ CREEK  
PLANNING COMMISSION  
PAUL D. BUECHE MUNICIPAL BUILDING  
TUESDAY, JUNE 6, 2023, 7:00 P.M.**

**Resolution No. 230606-01**                      **AGENDA OF MAY 2, 2023**

Motion by Planning Commission Member: \_\_\_\_\_

**I Move** the Swartz Creek Planning Commission approves the agenda for the June 6, 2023 Planning Commission meeting.

Second by Planning Commission Member: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 230606-02**                      **MINUTES OF MAY 2, 2023**

Motion by Planning Commission Member: \_\_\_\_\_

**I Move** the Swartz Creek Planning Commission approves the Minutes for the May 2, 2023 Planning Commission meeting.

Second by Planning Commission Member: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 230606-03**                      **RESOLUTION TO RECOMMEND AMENDMENT OF THE  
ZONING ORDINANCE APPENDIX A TO REMOVE AND  
REPLACE ARTICLE 7, PUD PLANNED UNIT  
DEVELOPMENT DISTRICT**

Motion by Planning Commission Member: \_\_\_\_\_

**WHEREAS**, the Public Act 110 of 2006, the Michigan Zoning Enabling Act, enables cities to regulate land use through the creation and enforcement of zoning maps and regulations, and

**WHEREAS**, the city updated its master plan and DDA plan in 2022, which stressed the need to create a Planned Unit Development overlay for the downtown, further requiring changes to the zoning ordinance, and;

**WHEREAS**, the planning commission, with the assistance of staff, and input by the public, reviewed specific changes to the zoning ordinance at their regular meeting on June 6, 2023, and;

**WHEREAS**, the planning commission, at a public hearing at their meeting on June 6, 2023 and in reviewing the criteria in Zoning Ordinance Section 24.05,

found the proposed zoning ordinance amendments to be in the best interest of the public.

**THEREFORE, I MOVE** the City of Swartz Creek Planning Commission recommend that the City Council amend the Zoning Ordinance by removing Article 7 and replacing it with Article 7, as included in the June 6, 2023 planning commission packet.

Second by Planning Commission Member: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 230606-04                      ADJOURN**

Motion by Planning Commission Member: \_\_\_\_\_

**I Move** the Swartz Creek Planning Commission adjourns the June 6, 2023 Planning Commission meeting.

Second by Planning Commission Member: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**CITY OF SWARTZ CREEK  
VIRTUAL PLANNING COMMISSION BOARD MEETING  
ACCESS INSTRUCTIONS  
TUESDAY, JUNE 6, 2023, 7:00 P.M.**

The Planning Commission meeting of June 6, 2023 at 7:00 p.m. will be conducted as a hybrid meeting, with commissioners, staff, consultants, petitioners, and public attending in-person. The meeting will also be held virtually (online and/or by phone) to non-commissioners, due to health concerns surrounding Coronavirus/COVID-19.

To comply with the **Americans with Disabilities Act (ADA)**, any citizen requesting accommodation to attend this meeting, and/or to obtain the notice in alternate formats, please contact Connie Olger, 810-429-2766 48 hours prior to meeting,

**Zoom Instructions for Participants**

**To join the conference by phone:**

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID** number (also provided below) when prompted using your touch-tone (DTMF) keypad.

**Before a videoconference:**

1. You will need a computer, tablet, or smartphone with speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. Details, phone numbers, and links to videoconference or conference call is provide below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 9-digit Meeting ID.

**To join the videoconference:**

1. At the start time of your meeting, enter the link to join via computer. You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](https://join.zoom.us) on any browser and entering the Meeting ID provided below.

If you are having trouble hearing the meeting, you can join via telephone while remaining on the video conference:

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID number** (also provided below) when prompted using your touchtone (DMTF) keypad.
3. If you have already joined the meeting via computer, you will have the option to enter your participant ID to be associated with your computer.

**Participant controls in the lower left corner of the Zoom screen:**



Using the icons in the lower left corner of the Zoom screen you can:

- Mute/Unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- Invite other participants
- View participant list-opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand during Call to the Public
- Change your screen name that is seen in the participant list and video window
- Share your screen

Somewhere (usually upper right corner on your computer screen) on your Zoom screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” show the active speaker.

Topic: City of Swartz Creek Planning Commission Meeting  
Time: June 6, 2023 07:00 PM Eastern Time (US and Canada)

**Join Zoom Meeting**

<https://us02web.zoom.us/j/83096401128>

**Meeting ID: 830 9640 1128**

**One tap mobile**

+13017158592,,83096401128# US (Washington DC)

+13126266799,,83096401128# US (Chicago)

**Dial by your location**

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

**Meeting ID: 830 9640 1128**

If you have any further questions or concern, please contact 810-429-2766 or email [colger@cityofswartzcreek.org](mailto:colger@cityofswartzcreek.org). A copy of this notice will be posted at City Hall, 8083 Civic Drive, Swartz Creek, Michigan.

## CITY OF SWARTZ CREEK VIRTUAL (ELECTRONIC) MEETING RULES AND PROCEDURES

In order to conduct an effective, open, accessible, and professional meeting, the following protocols shall apply. These protocols are derived from the standard practices of Swartz Creek public meetings, Roberts Rules of Order, and city board & commission procedures. These procedures are adopted to govern participation by staff, councilpersons and members of the public in all City meetings held electronically pursuant to PA 228 of 2020. Note that these protocols do not replace or eliminate established procedures or practices. Their purpose is to augment standing expectations so that practices can be adapted to a virtual meeting format.

The following shall apply to virtual meetings of the city's public bodies that are held in accordance with the Open Meetings Act.

1. Meetings of the City Council, Planning Commission, Zoning Board of Appeals, Downtown Development Authority, Park Board, or committees thereunder may meet electronically or permit electronic participation in such meetings insofar as (1) the Michigan Department of Health and Human Services restricts the number of persons who can gather indoors due to the COVID-19 pandemic; (2) persons have an illness, injury, disability or other health-related condition that poses a risk to the personal health or safety of members of the public or the public body if they were to participate in person; or (3) there is in place a statewide or local state of emergency or state of disaster declared pursuant to law or charter by the governor or other person authorized to declare a state of emergency or disaster.
2. All meetings held hereunder must provide for two-way communication so that members of the public body can hear and respond to members of the general public, and vice versa.
3. Members of the public body who participate remotely must announce at the outset of the meeting that he/she is in fact attending the meeting remotely and by further identifying the specific physical location (by county, township, village and state) where he/she is located. The meeting minutes must include this information.
4. Notice of any meeting held electronically must be posted at the City Offices at least 18 hours before the meeting begins and must clearly explain the following:
  - (a) why the public body is meeting electronically;
  - (b) how members of the public may participate in the meeting electronically, including the specific telephone number, internet address or similar log-in information needed to participate in the meeting;
  - (c) how members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting;
  - (d) how persons with disabilities may participate in the meeting.
5. The notice identified above must also be posted on the City's website homepage or on a separate webpage dedicated to public notices for non-regularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes the meeting's purpose.

6. The City must also post on the City website an agenda of the meeting at least 2 hours before the meeting begins.
7. Members of the public may offer comment only when the Chair recognizes them and under rules established by the City.
8. Members of the public who participate in a meeting held electronically may be excluded from participation in a closed session that is convened and held in compliance with the Open Meetings Act.

## **MAINTAINING ORDER**

Public body members and all individuals participating shall preserve order and shall do nothing to interrupt or delay the proceedings of public body.

All speakers shall identify themselves prior to each comment that follows another speaker, and they shall also indicate termination of their comment. For example, "Adam Zettel speaking. There were no new water main breaks to report last month. That is all."

Any participants found to disrupt a meeting shall be promptly removed by the city clerk or by order of the Mayor. Profanity in visual or auditory form is prohibited.

The public body members, participating staff, and recognized staff/consultants/presenters shall be the only participants not muted by default. All other members must request to speak by raising their digital hand on the Zoom application or by dialing \*9 on their phone.

## **MOTIONS & RESOLUTIONS**

All Motions and Resolutions, whenever possible, shall be pre-written and in the positive, meaning yes is approved and no is defeated. All motions shall require support. A public body member whom reads/moves for a motion may oppose, argue against or vote no on the motion.

## **PUBLIC ADDRESS OF BOARD OR Commission**

The public shall be allowed to address a public body under the following conditions:

1. Each person who wishes to address the public body will be first recognized by the Mayor or Chair and requested to state his / her name and address. This applies to staff, petitioners, consultants, and similar participants.
2. Individuals shall seek to be recognized by raising their digital hand as appropriate on the digital application.
3. Petitioners are encouraged to appropriately identify their digital presence so they can be easily recognized during business. If you intend to call in only, please notify the clerk in advance of your phone number.
4. The city clerk shall unmute participants and the members of the public based upon the direction of the mayor or chair. Participants not recognized for this purpose shall be muted by default, including staff, petitioners, and consultants.
5. Individuals shall be allowed five (5) minutes to address the public body, unless special permission is otherwise requested and granted by the Mayor or Chair.
6. There shall be no questioning of speakers by the audience; however, the public body, upon recognition of the Mayor or Chair, may question the speaker.

7. No one shall be allowed to address the public body more than once unless special permission is requested, and granted by the Mayor or Chair.
8. One spokesperson for a group attending together will be allowed five (5) minutes to address the public body unless special permission has been requested, and granted by the Mayor or Chair.
9. Those addressing the public body shall refrain from being repetitive of information already presented.
10. All comments and / or questions shall be directed to and through the Mayor or Chair.
11. Public comments (those not on the agenda as speakers, petitioners, staff, and consultants) are reserved for the two "Public Comment" sections of the agenda and public hearings.

## **VOTING RECORD OF PUBLIC BODIES**

All motions, ordinances, and resolutions shall be taken by "YES" and "NO" voice vote and the vote of each member entered upon the journal.



**CITY OF SWARTZ CREEK SWARTZ CREEK, MICHIGAN  
MINUTES OF PLANNING COMMISSION MEETING  
May 2, 2023**

Meeting called to order at 7:01 p.m. by Commissioner Wyatt

Pledge of Allegiance.

**ROLL CALL:**

Commissioners present: Binder, Branoff, Campbell, Sturgess, Krueger, Henry, Currier, Wyatt.

Commissioners absent: Grimes.

Staff present: Adam Zettel, City Manager.

Others present: Carmine Avantini.

Others Virtually Present: George Hicks, Lania Rocha, Rae Lynn Hicks.

**APPROVAL OF AGENDA:**

**Resolution No. 230502-01**

**(Carried)**

Motion by Planning Commission Member Krueger  
Second by Planning Commission Member Henry

**I Move** the Swartz Creek Planning Commission approves the agenda for the May 2, 2023, Planning Commission meeting.

Unanimous Voice Vote  
Motion Declared Carried

**MINUTES OF FEBRUARY 7, 2023**

**Resolution No. 230502-02**

**(Carried)**

Motion by Planning Commission Member Henry  
Second by Planning Commission Member Binder

**I Move** the Swartz Creek Planning Commission approves the Minutes for the February 7, 2023, Planning Commission meeting.

Unanimous Voice Vote  
Motion Declared Carried

**MINUTES OF FEBRUARY 7, 2023**

**Resolution No. 230502-03**

**(Carried)**

Motion by Planning Commission Member Henry

Second by Planning Commission Member Binder

**I Move** the Swartz Creek Planning Commission approve the amended Minutes for the February 7, 2023, Planning Commission meeting.

Unanimous Voice Vote  
Motion Declared Carried

**MEETING OPENED TO THE PUBLIC:**

None.

**BUSINESS:**

**Planned Unit Development Amendment**

Carmine Avantini reviewed the PUD Plan and Article 7 amendments which will codify design guidelines, land use expectations and intent of the downtown features in the Master Plan.

Commissioners suggested some additional changes.

**Downtown Design Guidelines**

Brief discussion took place with future deliberation.

A public hearing notice will be published and set on the agenda for the June meeting.

**Meeting Open to Public:**

None.

**Remarks by Planning Commission:**

Commissioner Branoff thinks it was a good discussion tonight.  
Commissioner Wyatt likes the diversity of ideas and enthusiasm.  
Commissioner Krueger hopefully we have a development that will soon be announced that could bring a lot of good paying jobs to our area and we should start thinking about high end housing in our area.

**Adjourn**

**Resolution No. 230502-04**

**(Carried)**

Motion by Planning Commission Member Binder  
Second by Planning Commission Member Campbell

**I Move** the Swartz Creek Planning Commission adjourns the May 2, 2023, Planning Commission meeting.

Unanimous Voice Vote  
Motion Declared Carried

Meeting adjourned at 8:26 p.m.

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Betty Binder, Secretary



Where Friendships Last Forever

Adam Zettel, AICP

City Manager

[azettel@cityofswartzcreek.org](mailto:azettel@cityofswartzcreek.org)

Date: May 31, 2023

**To: Planning Commissioners**  
**From: Adam Zettel, AICP**  
**RE: June 6, 2023 Planning Commission/Zoning Board of Appeals Meeting**

Hello everyone,

**We will be meeting at 7:00 p.m. on June 6, 2023.** Commissioners MUST attend in-person. However, we shall be conducting the meeting using the Zoom application for the benefit of the public. If you cannot attend, please let me know.

**The sole purpose of this meeting will be to conduct a public hearing on and to continue deliberation regarding the zoning updates that follow up with the Master Plan amendments.** Carmine has fully updated the Article 7 Planned Unit Development section. This is included in the packet and will be the subject of the public hearing.

I expect him to take us through updates from the last meeting. To recap, the amendment will allow the city to codify many of the design guidelines, land use expectations, and intent of the downtown features in the master plan. Once in zoning, these elements will have the weight of law.

The expectation at this meeting, pending input from the public, is to pass along a complete draft for consideration for city council approval. Obviously, a lot has gone into this since the update of the master plan, DDA plan, and initial version. At this time, the commission should consider the criteria for a formal amendment as follows:

*The planning commission and city council shall consider the following criteria to determine the appropriateness of amending the text, standards and regulations of the zoning ordinance:*

*A. Documentation has been provided from city staff, or the zoning board of appeals indicating problems and conflicts in implementation of specific sections of the ordinance.*

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8083 Civic Drive

Swartz Creek Michigan 48473

Phone: (810)-635-4464

Fax: (810)-635-2887

[www.cityofswartzcreek.org](http://www.cityofswartzcreek.org)

<ftp://cityofswartzcreek.org>

June 6, 2023  
Planning Commission

*B. Reference materials, planning and zoning publication, information gained at seminars or experiences of other communities that demonstrate improved techniques to deal with certain zoning issues, or that the city's standards are outdated.*

*C. The city attorney recommends an amendment to respond to significant case law.*

*D. The amendment would promote implementation of the goals and objectives of the city's master plan.*

*E. Other factors deemed appropriate by the planning commission and city council.*

Note that the amendment does not need to satisfy ALL criteria. The list is in place to guide decision making. If agreeable, I hope the commission will proceed with the resolution that is in the packet to recommend approval to the city council. Once complete, Carmine will set to work on a specific overlay district for the downtown, one which incorporates the design guidelines for downtown.

Please take a look at the materials. I may help to do so with our new master plan and DDA plan at your elbow. That is all for now. Contact me with questions or comments. If I get other materials, I will send them along!

Sincerely,



Adam H. Zettel, AICP  
City Manager  
City of Swartz Creek  
[azettel@cityofswartzcreek.org](mailto:azettel@cityofswartzcreek.org)

## ***Article 7. PUD, Planned Unit Development District<sup>1</sup>***

### **Section 7.00. Intent.**

Planned Unit Development District (PUD) standards are provided to:

- a) Permit flexibility in the regulation of land development allowing for higher quality of design through innovation in land use, variety in design, layout, and type of structures constructed.
- b) Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- c) Protect and preserve natural resources, natural features, open space, and historical or significant architectural features.
- d) Minimize adverse traffic impacts.
- e) Provide convenient vehicular access throughout the development and minimizing adverse traffic impacts.
- f) Provide complete non-motorized circulation to, from, and within developments.
- g) Encourage development of convenient recreational facilities as an integral part of residential developments.
- h) Eliminate or reduce the degree of non-conforming uses or structures.
- i) Promote efficient provision of public services and utilities.
- j) ~~Provide~~ Promote adequate housing and employment.

The PUD standards are not intended to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth.

For properties approved for PUD designation, the PUD standards consist of those requirements provided within this Article and by waivers granted by the Planning Commission authorizing a departure from one (1) or more of the requirements or standards of the underlying zoning district. these PUD standards provide the developer with flexibility in design and permit variation of the specific bulk, area, and in some specified situations the density requirements of this ordinance on the basis of the total PUD plan, subject to the approval of the PUD plan by the planning commission and city council in accordance with the requirements as herein set forth.

This article provides for four types of PUD: 1) a residential overlay, 2) a Morrish Road Overlay, 3) a downtown overlay and 4) an industrial overlay. Each of the PUDs include both supplementary standards which apply simultaneously, or replace, standards of the underlying residential zoning district.

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<sup>1</sup>Editor's note(s)—Ord. No. 440 , §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 7, §§ 7.00—7.04, and renumbered Art. 11 §§ 11.00—11.16 as Art. 7 §§ 7.00—7.16, as set out herein. The former Art. 7 pertained to the R-4, Two-Family Residential District and derived from Ord. No. 395, adopted August 15, 2006.

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(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.01. Eligibility criteria.**

To be eligible for PUD approval, the applicant must demonstrate that each of the following criteria will be met:

- (a) *Demonstrated benefit.* The PUD shall provide one or more of the following benefits not possible under the requirements of another zoning district, as determined by the planning commission:
  - (1) The site has significant natural or historic features which will be preserved through development under the PUD standards, as determined by the planning commission.
  - (2) A complementary mixture of uses or a variety of housing types.
  - (3) The PUD will create a more desirable environment than would be possible through the application of strict zoning requirements applied in other sections of this ordinance.
  - (4) Common open space for passive or active recreational use or a design which preserves common open space, not possible under the standards of another zoning district.
  - (5) Mitigation to offset community impacts.
  - (6) Redevelopment of a non-conforming site where creative design can address unique site constraints.
- (b) *Availability and capacity of public services.* The site shall be served by a sanitary sewer system and the municipal water system. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
- (c) *Compatibility with the master plan.* The proposed development shall not have an adverse impact on future development as proposed in the Swartz Creek Master Plan.
- (d) *Compatibility with the planned unit development intent.* The proposed development shall be consistent with the intent and spirit of this ordinance.
- (e) *Development impact.* The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this ordinance.
- (f) *Unified control of property.* The Planned Unit Development District site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- (g) *Petition for PUD.* A PUD zoning classification may be initiated only by a petition.
- (h) *Minimum land area.* No minimum size is required.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.02. Types of PUD zoning designations.**

A property meeting the eligibility criteria may be rezoned to a PUD District, based on the requirements shown in Table 7.03 and appropriate requirements contained elsewhere in this ordinance. The PUD rezoning shall be concurrent with the approval of a Preliminary PUD ~~conceptual-site~~ plan. Any changes to the underlying/pre-PUD zoning designation may be done concurrently with the PUD rezoning where such rezoning would be in accordance with the city's master plan. The PUD designation shall be noted in the application and on the official zoning map upon approval.

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(Supp. No. 9)

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**Section 7.03. City of Swartz Creek—Planned Unit Development Districts.**

District Name	Type of District	Permitted Uses	Special Land Uses	Additional Provisions
Residential Planned Unit Development (RPUD)	Overlay of a residential district	Open space or cluster housing projects with one or more types of residential uses Existing dwellings	Same as underlying residential district	Maximum density, minimum floor area and maximum height shall comply with the dimensional standards of the underlying zoning district, but the lot area, setback and width requirements may be reduced by up to 20 percent with the resultant area preserved as open space. Wetland setbacks may not be reduced. Wetlands and land without perkable soils shall be credited as 25 percent of their area for purposes of calculating overall density. <i>The overall density may be increased by up to ten percent for sites of at least 100 acres where the planning commission determines significant natural resources and open space will be preserved in a natural state and the increased density would be compatible with surrounding zoning.</i>
Morrish Road Planned Unit Development (MRPUD)	Overlay of a GBD District	Same as underlying district Existing dwellings	Same as underlying residential district	Maximum density, minimum floor area and maximum height shall comply with the dimensional standards of the underlying zoning district, but the lot area, setback and width requirements may be reduced by up to 20 percent upon a determination that the building contributes to an attractive entranceway into Swartz Creek, preferably with an emphasis on the well-being of downtown.
Downtown Planned Unit Development (DPUD)	Overlay of the CBD, Central Business District	Same as underlying district Existing dwellings	Same as underlying district	<del>Projects shall comply with the Maximum density and, minimum floor area and maximum building height shall comply with the dimensional standards of the underlying zoning district, but can be changed through the granting of a waiver from the Planning Commission, the lot area, setback and width requirements may be reduced by up to 20 percent</del> upon a determination that the building contributes to the well-being of the downtown area <u>and meets the Intent of Section 7.00.</u> <del>On-site parking required by the zoning ordinance may be reduced by up to 25 percent where it can be demonstrated that the parking requirements are excessive, are needed at peak hours only, and/or that alternative parking facilities (including</del>

				<del>on-street spaces, shared parking areas, municipal parking lots) are available.</del>
Planned Industrial Parks (PID)	Overlay of Industrial District	Uses permitted in the Industrial and Office Districts	Special Land Uses of the Industrial and Office Districts	All buildings, structures, accessory structures and parking areas shall meet the minimum setback standards of the Industrial District along the site lot lines, as specified in the Table of Dimensional Standards. Minimum lot size shall be two acres except up to 25 percent of the total number of lots may be between one and one-half and two acres in size. Maximum building height shall be consistent with the standards for the Industrial District.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

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## Section 7.04. Application and review procedure.

The application process for a PUD involves the following steps:

- A. An optional pre-application review by the Planning Commission to provide guidance to the applicant.
- B. Request for rezoning to appropriate PUD designation and a ~~conceptual~~ Preliminary PUD site plan.
- ~~C~~B. A final PUD site plan(s).
- ~~D~~C. A contractual agreement between the applicant and the city.
- ~~E~~D. A final PUD site plan review for each building or project phase, where appropriate.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

## Section 7.05. Zoning and ~~conceptual~~ Preliminary PUD site plan approval process.

- (a) *Pre-application workshop.* An optional pre-application workshop with the planning commission may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal. An applicant desiring a workshop shall request placement on the planning commission agenda.
- (b) *Application.* A petition for a PUD District classification for a parcel of land may be made by the owner(s) of record or by any person(s) acting on behalf of the owner(s) of record of the subject parcel. The petition, including 12 copies of all ~~conceptual~~ Preliminary PUD site plan submittal items listed in section 7.06, shall be filed with the city clerk who shall transmit the petition and the PUD concept plan to the city council. The city council shall forward the petition to the planning commission. The complete application shall be submitted at least 45 days prior to the meeting at which the planning commission shall first review the request.
- (c) *Planning commission public hearing.* The planning commission shall review the rezoning request, the ~~conceptual~~ Preliminary PUD site plan, and draft PUD agreement, conduct a public hearing, said hearing to be held within 32 days of the receipt by the planning commission of the information required for the PUD. The planning commission shall give notice of the public hearing as required by The Michigan Zoning Enabling Act (Public Act 110 of 2006).
- (d) Following the public hearing, the planning commission shall make a recommendation to the city council based on the following standards:
  - (1) The PUD shall satisfy the eligibility criteria of section 7.01.
  - (2) The PUD shall comply with the requirements of this article, other applicable sections of this ordinance and the subdivision or condominium requirements of the city, as applicable.
  - (3) The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area.
  - (4) The PUD shall be adequately served by essential public facilities and services, such as roads, pedestrian or bicycle facilities, police and fire protection, drainage systems, water supply, and sewage facilities. The design shall minimize the negative impact on the road system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
  - (5) The proposed PUD shall not have a ~~an unacceptable~~ significant adverse effect on the quality of the natural environment in comparison to the impacts associated with a conventional development.

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(Supp. No. 9)

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- (e) *Revisions.* The applicant shall make any revisions to incorporate conditions noted by the planning commission and submit 12 copies to the city to provide sufficient time for review prior to the city council meeting.
  - (f) *City council approval of ~~conceptual~~Preliminary PUD site plan.* Within 90 days following receipt of a recommendation from the planning commission, the city council shall conduct a public hearing on the requested PUD rezoning and the ~~conceptual~~Preliminary PUD site plan and either approve, deny or approve with a list of conditions made part of the approval. The city council may require a re-submittal of the ~~conceptual~~Preliminary PUD site plan reflecting the conditions for approval by the zoning administrator prior to submittal of a final PUD ~~final~~ site plan.
  - (g) *Time limits for ~~conceptual~~Preliminary plan approval.* Approval of the ~~conceptual~~Preliminary PUD site plan by the city council shall confer upon the owner the right to proceed through the subsequent planning phase for a period not to exceed two years from date of approval. If application for final PUD site plan approval is not requested within this time period, the planning commission shall hold a public hearing to revert the site to the pre-PUD zoning. The city council may extend the period up to an additional two years, ~~if requested in writing by the applicant prior to the expiration date.~~ upon a showing of substantial progress in development of previously approved phases, or upon a showing of good cause for not having made such progress.
  - (h) *Conditions.* Reasonable conditions may be required with the approval of a PUD for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Swartz Creek Master Plan. Conditions attached shall be included in the PUD agreement.
  - (i) *Final approvals.* Following approval of the ~~conceptual~~Preliminary PUD plan, the application shall follow the procedures and requirements for approvals under the subdivision, condominium or site plan review process, as applicable. All site plans or tentative ~~preliminary~~Preliminary plats subsequently submitted shall conform with the ~~preliminary~~Preliminary PUD ~~concept~~ plan, all conditions attached to ~~preliminary~~Preliminary approval, the PUD agreement and the requirements of this ordinance. Where the planning commission determines that changes to the final site plan or final ~~preliminary~~Preliminary plat significantly deviate from the ~~preliminary~~Preliminary PUD ~~concept~~ plan, the planning commission shall conduct another public hearing and review the plan as an amended resubmission of the Preliminary PUD ~~concept~~ plan under the requirements of this article.
  - (k) The City Council may, by resolution and upon recommendation of the Planning Commission, approve an overall Preliminary PUD site plan establishing specific design guidelines and development standards for a site or multiple sites, which may include waivers for certain requirements and standards of the underlying zoning district or special use(s). For the purposes of this Article, an approved Preliminary PUD site plan requires each developer to follow the process for final PUD site plan approval outlined in this Article. The Planning Commission may require each developer to enter into a separate PUD Agreement for each individual site or series of projects as a condition of approval to the final PUD site plan approval. Deviations from an approved Preliminary PUD site plan or final PUD site plan shall be permitted only in accordance with Section 7.14. Amendments and deviations from approved final PUD site plan.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.06. ~~Conceptual~~Preliminary PUD site plan submittal requirements.**

The purpose of the ~~conceptual~~Preliminary review is to provide a mechanism whereby the applicant can obtain a substantial review of the proposed project in order to prepare final site engineering and architecture

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plans, and to execute necessary agreements between the applicant and the city. Submittal requirements are listed below.

- A. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.
- B. A completed application form, supplied by the city clerk and an application fee. A separate escrow deposit may be required for administrative charges to review the PUD submittal.
- C. Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale, or in another format acceptable to the city.
- D. Cover sheet providing:
  - 1. The applicant's name, mailing address, telephone/fax number(s) and email address;
  - 2. The name of the development;
  - 3. The preparer's name and professional seal of architect, engineer, surveyor or landscape architect indicating license in the State of Michigan;
  - 4. Date of preparation and any revisions;
  - 5. North arrow;
  - 6. Property lines and dimensions;
  - 7. Complete and current legal description and size of property in acres;
  - 8. Small location sketch of the subject site and area within one-half mile; and to scale;
  - 9. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site;
  - 10. Lot lines and all structures on the property and within 100 feet of the PUD property lines;
  - 11. Location of any access points on both sides of the street within 100 feet of the PUD site along streets where access to the PUD is proposed.
- E. An overall area map at a scale of not less than ~~one inch~~ one-inch equals 2,000 feet showing the relationship of the development to its surroundings such as major roads or collector roads.
  - 1. Physical development plan prepared at a minimum scale of ~~one inch~~ one-inch equals 100 [feet].
  - 2. Boundaries of proposed PUD and overall property dimensions.
  - 3. Property lines of adjacent tracts of subdivided and unsubsidized land shown in relation to the PUD site, including those of areas across abutting roads.
  - 4. Location, widths, and names of existing or prior platted roads and private roads, and public easements within or adjacent to the PUD site, including those located across abutting roads.
  - 5. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the PUD site.
  - 6. Topography drawn as contours with a one-foot contour interval. Topography to be based on USGS datum and be extended a minimum distance of 200 feet outside the PUD boundaries.
  - 7. Location of existing buildings and structures.
  - 8. Location of significant natural and historical features.

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9. Existing limits of major stands of trees and a tree survey indicating the location, species and caliper of all trees with a caliper over eight inches, measured four feet above grade.
- F. A ~~conceptual~~Preliminary PUD site plan sheet including:
1. ~~Conceptual~~Preliminary layout of proposed land use, acreage allotted to each use, residential density overall and by underlying zoning district (calculations shall be provided for both overall and useable acreage), building footprints, structures, roadways, parking areas, drives, driveways, and pedestrian paths.  
*Note:* Useable area is total area less public road rights-of-way, year-round surface water bodies, and MDEQ regulated wetlands.
  2. Building setbacks and spacing.
  3. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees over eight inches in caliper to be retained, and any woodlands that will be designated as "areas not to be disturbed in development of the PUD.
  4. A storm water management system, water supply and wastewater disposal systems, any public or private easements, and a note of any utility lines to be removed.
  5. A list of any requested (and known) deviations from the dimensional standards of the zoning ordinance or sign ordinance that otherwise would apply (permitted deviations include: minimum lot width, area or setbacks; private road standards).
  6. If a multi-phase Planned Unit Development District is proposed, the area of each phase must be identified. For residential uses identify the number, type, and density proposed by phase.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.07. Standards for approval of a Planned Unit Development District and ~~conceptual~~Preliminary PUD site plan.**

Based upon the following standards, the planning commission may recommend denial, approval, or approval with conditions, and the city council may deny, approve, or approve with conditions the proposed Planned Unit Development District.

- A. The Planned Unit Development District meets the qualification requirements.
- B. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone, or that of any other zoning district.
- C. The Planned Unit Development District is generally consistent with the goals, objectives and land use map of the future land use plan.
- D. Judicious effort has been used to preserve significant natural and historical features, surface and underground water bodies and the integrity of the land.
- E. Public water and sewer facilities are available or shall be provided for by the developer as part of the site development. The planning commission may approve a RPUD without public water and sewer, if the overall density is one unit per acres or more less.

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F. Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site is provided. Drives, streets and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.

G. Any waivers from the requirements or standards of the underlying zoning district or special use(s) in accordance with Section 13.13, such as but not limited to density, lot sizes, setbacks, height limits, required facilities, buffers, open space, or permitted sign area, will be reviewed and approved by the Planning Commission when it is determined that the waivers will accomplish the objectives identified in this Article and be consistent with the intent and purpose of the underlying zoning district.

~~G. Any deviations from the applicable zoning regulations are reasonable and meet the intent of this article.~~

The city council may impose additional reasonable conditions, 1) to ensure that public services and facilities affected by a Planned Unit Development District will be capable of accommodating increased service and facility loads caused by the Planned Unit Development District, 2) to protect the natural environment and conserve natural resources and energy, 3) to ensure compatibility with adjacent uses of land, and 4) to promote the use of land in a socially and economically desirable manner.

H. In a Planned Industrial Park (PID) a setback of 50 feet wide shall be provided along the perimeter of the PID fronting on a public street.

I. In a Planned Industrial Park (PID) a setback of 20 feet wide shall be provided along the perimeter of a PUD development not fronting on a public street. Such setback shall be designed and landscaped as a buffer strip; parking lots and driveways shall not be permitted in such yard, except that drives may cross such setback.

J. A setback at least 35 feet wide shall be provided along the right-of-way of a public collector street proposed within any PUD, and a setback 50 feet wide shall be provided along the right-of-way of a public principal or minor arterial street proposed within the PUD. Collector roads and principal and minor arterials roads are shown on the Transportation Map in the Swartz Creek Master Plan.

K. A landscaped setback at least ten feet wide shall be provided between a parking lot of five or more spaces and a property line within any PUD, and 20 feet from the perimeter property line of the PUD, except when adjacent to a public street right-of-way line, existing or proposed, in which case the preceding setbacks shall apply.

L. All required setbacks shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas as provided herein.

M. Any single-family dwelling structure shall be located at least 20 feet from any other single-family dwelling structure unless structurally attached thereto.

N. The location of buildings and uses, and the distances between buildings shall be clearly shown on the area plan and shall control the development and continued use of the property.

O. ~~There are no height regulations in a PUD provided that any b~~Buildings exceeding a height of two and one-half stories or 35 feet shall be approved as to specific height by the Planning Commission, based upon the following:

1. There not being a negative impact on light, air circulation, views, or airport flight patterns;

~~city council upon recommendation from the planning commission. Approval shall be based upon findings regarding light, air circulation, views, airport flight patterns~~

2. The proposed building being in scale with the existing or intended character of the district; and

3. and A positive recommendations from the city fire chief regarding fire protection and safety.

- P. Each lot or principal building in a PUD shall have vehicular access from a public street or from a private street.
- Q. Each lot or principal building in a PUD shall have pedestrian access from a public or private sidewalk, where deemed necessary by the city council. All parts and phases of the PUD shall be interconnected by a sidewalk system which will provide the necessary, safe and convenient movement of pedestrians. A bicycle path system shall also be provided in the PUD and may be part of the sidewalk system, where approved by the city council. Said system shall be connected to the public sidewalk system.
- R. Public and private streets shall be designed and constructed according to standards established for public streets. If, in the future, private streets in a PUD are to be dedicated to a public agency, the owners shall first fully agree to bear the full expense of construction or any other action required to make streets suitable for public acceptance.
- S. An individual dwelling unit in any single-family, two-family townhouse, or similar residential structure shall not have direct access to a collector or arterial street.
- T. Electrical, telephone, and cable television lines shall be underground.
- U. Usable Open space areas shall be conveniently and equitably located through the PUD in relation to the location of dwelling units and natural features.
- V. Open space areas shall have minimum dimensions which, in the planning commission's opinion, are usable for the functions intended and which will be maintainable.
- W. The city council may require, that natural amenities such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unique wildlife habitats, ponds, streams, and marshes be preserved as part of the open space system of the PUD.
- X. The city council may require dedication for road rights-of-way, schools and/or parks.
- y. Where there is conflict between required setbacks and the Preliminary PUD Site Plan, the setbacks shown on the Preliminary PUD Site Plan will prevail.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

**Section 7.08. Approval of ~~conceptual~~Preliminary PUD site plan.**

Upon approval of the ~~conceptual~~Preliminary PUD site plan by the city council the property shall be rezoned to an appropriate Planned Unit Development District Zoning District, with the underlying zoning district noted on the official zoning.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

**~~Section 7.09. Expiration.~~**

~~Approval of the conceptual PUD site plan by the city council shall confer upon the owner the right to proceed through the subsequent planning phase for a period not to exceed two years from date of approval. If application for final PUD site plan approval is not requested within this time period, re-submittal of the application shall be required. The city council may extend the period up to an additional two years, if requested in writing by the applicant prior to the expiration date.~~

~~(Ord. No. 440 , §§ 1, 10, 6-10-19)~~



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### Section 7.0910. Process for ~~F~~final PUD site plan(s).

- A. The applicant shall submit 12 copies of a detailed final site plan for the entire approved ~~conceptual~~Preliminary PUD site plan ~~area~~ to the city clerk ~~to initiate the review process. at least 30 days prior to the planning commission meeting at which the planning commission shall first review the request.~~
- B. Upon submission of all required materials and fees required by Article 29, the planning commission shall hold such hearings as may be required by law, and shall approve, deny, or approve with conditions in accordance with the standards and regulations of Article 29, Site Plan Review.
- C. If the final PUD site plan was approved with conditions, the applicant shall submit a revised site plan to the city clerk for approval prior to the issuance of any building permits.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### Section 7.101. Final PUD site plan submittal procedures and approval.

- A. Final PUD site plan review for each building or project phase shall be submitted according to the procedures and standards contained within this ordinance. The purpose of the PUD final review is to consider the final site plan for the entire PUD, which is consistent with the approved ~~conceptual~~Preliminary PUD site plan. Receipt of a building permit shall require final approval by the city council.

The final submittal shall include the site plan information required by Article 29, and the following:

- A. *Development agreement.* A proposed written agreement specifying all the terms and understanding of the PUD development, and the conditions upon which the PUD approval was based including a specific list of any approved deviations from the standards of this ordinance. The final site plan shall not be officially approved until said agreement has been reviewed by the city attorney, signed by representatives of both parties and received by the city clerk. The agreement shall be recorded in the office of Genesee County, Registrar of Deeds at the expense of the applicant.
- B. *Hydrological impact assessment.* The planning commission may determine that a hydrological impact assessment is needed describing the existing ground and surface water resources including, but not limited to, a description of the water table, direction of groundwater flow, recharge and discharge areas, lake levels, surface drainage, floodplains, and water quality as well as the projected impact of the proposed development on such resources, in particular impacts associated with water supply development, wastewater disposal, and storm water management.

For projects over 100 acres, the applicant may submit a schematic site plan illustrating general building footprints, parking lot areas, road alignments, open space and general landscaping; with more detailed site plans submitted for the first building or project phase. Each detailed site plan shall be reviewed according to the procedures and standards of Article 29, Site Plan Review.

The final PUD site plan shall be reviewed by the planning commission, which shall make recommendations to city council, according to the procedures outlined in Article 29, Site Plan Review.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### Section 7.112. Condominium projects.

For any condominium section of a PUD, the applicant shall provide a copy of the master deed and condominium association bylaws for approval by the city council. The condominium documents shall provide limits on use of common areas or open space for accessory structures such as swimming pools, decks, playground

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equipment and buildings. A plan shall be provided indicating the limits of such accessory structures within a defined envelope.

Prior to approval of the final PUD site plan, the applicant shall submit a written agreement to the city attorney for review and approval by the city council. The agreement shall:

- A. Set forth the conditions upon which the approval is based, with reference to the approved final PUD site plan.
- B. When open space or common areas are indicated in the PUD plan for use by the residents, the open space or common areas shall be conveyed in fee or otherwise committed by dedication to an association of the residents, and the use shall be irrevocably dedicated for the useful life of the residences, and retained as open space for park, recreation or other common uses.
- C. Set forth a program and financing for maintaining common areas and features, such as walkways, signs, lighting and landscaping.
- D. Assure that trees and woodlands will be preserved as shown on the site plan, or replaced on a caliper for caliper basis.
- E. Assure the construction and maintenance of all streets and necessary utilities (including public water, wastewater collection and treatment) through bonds or other satisfactory means, for any and all phases of the PUD. In the case of phased PUDs this requirement shall be reviewed at the time of any final site plan approval.
- F. Address any other concerns of the city regarding construction and maintenance.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.123. Schedule of construction.**

Final site plan approval of a PUD, PUD phase or a building within a PUD shall be effective for a period of three years. Further submittals under the PUD procedures shall be accepted for review upon a showing of substantial progress in development of previously approved phases, or upon a showing of good cause for not having made such progress.

In the development of a PUD, the percentage of single-family dwelling units under construction, or lots sold, shall be at least in the same proportion to the percentage of multiple-family dwelling units under construction at any one time, provided that this section shall be applied only if single-family dwelling units comprise 25 percent or more of the total housing stock proposed for the PUD. Non-residential structures designed to serve the PUD residents shall not be built until the PUD has enough dwelling units built to support such non-residential use. The planning commission may modify this requirement in their ~~conceptual~~Preliminary or final submittal review process. Further, this restriction does not apply to a Downtown PUD or the Morrish Road PUD since only non-residential might be constructed in the PUD.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.134. Amendments and deviations from approved final PUD site plan.**

Deviations from the approved final PUD site plan may occur only when an applicant or property owner who was granted final PUD site plan approval notifies the zoning administrator of the proposed amendment to such approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved final PUD site plan.

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- A. *Procedure.* Within 14 days of receipt of a request to amend the final PUD site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission, and city council or minor, allowing administrative approval, as noted below.
- B. *Minor changes.* The zoning administrator may approve the proposed revision upon finding the change would not alter the basic design nor any conditions imposed upon the original plan approval by the planning commission. The zoning administrator shall inform the planning commission of such approval in writing. The zoning administrator shall consider the following when determining a change to be minor.
1. For residential buildings, the size of structures may be reduced; or increased by five percent, provided the overall density of units does not increase and the minimum square footage requirements are met.
  2. Gross floor area of non-residential buildings may be decreased; or increased by up to five percent or 10,000 square feet, whichever is smaller.
  3. Floor plans may be changed if consistent with the character of the use.
  4. Horizontal and/or vertical elevations may be altered by up to five percent.
  5. Relocation of a building by up to five feet, if consistent with required setbacks and other standards.
  6. Designated "Areas not to be disturbed" may be increased.
  7. Plantings approved in the final PUD landscape plan may be replaced by similar types of landscaping on a one-to-one or greater basis. Any trees to be preserved which are lost during construction may be replaced by at least two trees of the same or similar species.
  8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
  9. Changes of building materials to another of higher quality, as determined by the zoning administrator.
  10. Slight modification of sign placement or reduction of size.
  11. Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.
  12. Changes required or requested by the city, county or state for safety reasons.
- C. *Major changes.* Where the zoning administrator determines the requested amendment to the approved final PUD site plan is major, re-submittal to the planning commission and city council shall be required. Should the planning commission determine that the modifications to the final PUD site plan significantly alter the intent of the ~~conceptual~~Preliminary PUD site plan, a revised ~~conceptual~~Preliminary PUD site plan shall be submitted.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.14. Appeals, Variances and Waivers.**

- A. No decision related to a PUD, including the approval or denial of a preliminary PUD plan or final PUD site plan or a decision to grant or deny a waiver, may be appealed to the Zoning Board of Appeals, nor are waivers granted subject to variance approval or modification by the Zoning Board of Appeals. Any departure from an approved final PUD site plan shall be permitted only as authorized in Section 7.14 Amendments and Deviations from Approved Preliminary PUD Plan or Approved Final PUD Site Plan.

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- B. Waivers. A waiver may be granted as part of an approval according to the provisions of this Article for certain requirements and standards of the underlying zoning district or proposed special use upon the City Council or Planning Commission's own discretion or written request by the applicant. The requirements or standards shall be applied to the maximum extent possible, but suitable alternatives that substantially achieve the purpose of this Zoning Ordinance may be accepted, if any, if the requirements or standards are deemed impractical or unreasonable. Any final approval of the City Council or Planning Commission that provides for a relaxation of standards required by the underlying zoning district or this Chapter is presumed to have been waived in accordance with this Article.

The Planning Commission can approve waivers under this Article when the following conditions have been met:

1. The waiver will result in an improvement to the design or function of a building or site which would not be possible following the standards of the zoning district.
2. The need for the waiver cannot be the result of a self-created situation.
3. The waiver cannot be sought as a way to circumvent or avoid the requirements of the zoning ordinance.

### **Section 7.15. Performance guarantees.**

- A. Performance bonds, irrevocable bank letters of credit, cash deposits, or other forms of security acceptable as to type and amount to the city council shall be provided by the applicant to the city clerk. Such security shall be for construction of site improvements shown on the approved area plan.
- B. The applicant shall submit a cost estimate of the improvements to be covered by the guarantee, and verified as to amount by the city manager. The city council may release portions of a deposit in relation to work completed and approved upon inspection as complying with an approved plan provided however, that the balance on deposit will be sufficient to complete remaining site improvements. In the event that the applicant shall fail to provide improvements according to an approved plan, the city council shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited security, or may require performance by the bonding company.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

### **Section 7.16. ~~Appeals and~~ Violations.**

~~The zoning board of appeals shall have the authority to hear and decide appeal requests by property owners for variances from the city zoning ordinance. However, the zoning board of appeals shall not have the authority to change conditions or make interpretations to the PUD site plan or written agreement.~~

A violation of the PUD plan or agreement shall be considered a violation of this ordinance.

- A. Violations ~~or~~ any deviation from the approved PUD site plan, except as authorized in this ordinance, shall be considered a violation of this article and treated as a misdemeanor. Further, any such deviation shall invalidate the PUD designation.
- B. Violations of any plan approved under this section, or failure to comply with any requirements of this section, including any agreements and conditions attached to any approved plan, shall be considered a violation of this ordinance.

(Ord. No. 440 , §§ 1, 10, 6-10-19)

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