

To: Douglas Planning Commission

**From: Nicholas Wikar
Planning and Zoning Administrator**

Date: June 8, 2022

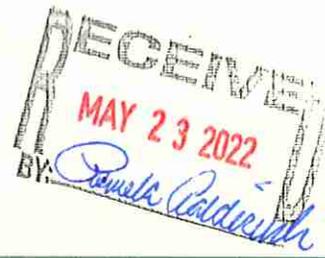
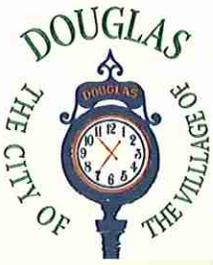
**Subject: Public Hearing - Recommendation of Amendment(s):
Article 16: General Provisions and Article 26: Special Use
Standards; to Repeal and Replace Article 27: Planned Unit
Development Districts, City of the Village of Douglas
Zoning Ordinance**

The Douglas Planning Commission shall consider petition and accept public comments in a Public Hearing, for Planning Commission Recommendation to amend Article 16: General Provisions and Article 26: Special Use Standards, to repeal and replace Article 27: Planned Unit Development Districts of the Zoning Ordinance, pursuant to Section 28.06. Commissioners shall consider draft amendments provided by the Planning and Zoning Administrator, for Consideration by City Council.

Upon close of this Public Hearing, and Planning Commission Recommendation, the Planning and Zoning Administrator shall make any additional revisions and order legal review of final draft amendments prior scheduling. The Planning and Zoning Administrator shall then facilitate the necessary Notice of Public Hearing(s), to ensure public participation and Consideration by the City Council, pursuant to Section 28.07.

The financial burden associated with this recommended action of the Planning Commission may include cost for additional publication and delivery of legal notice and shall include cost of legal review of the proposed Ordinance Amendments by the City Attorney, prior to Consideration by City Council.

It is recommended the Douglas Planning Commission arrive at findings of fact in a Public Hearing, for Planning Commission Recommendations and proposed amendments to Article 16: General Provisions and Article 26: Special Use Standards for Consideration by City Council, to repeal and replace Article 27: Planned Unit Development Districts, City of the Village of Douglas Zoning Ordinance.



The Village of Friendliness ~ Since 1870

Nicholas Wikar, Planning & Zoning Administrator
86 W. Center Street, P.O. Box 757
Douglas, MI 49406

May 23, 2022

Pamela Aalderink, City Clerk
86 W. Center Street, P.O. Box 757
Douglas, MI 49406

Cc: Douglas Planning Commission

Dear Madam Clerk:

Please accept petition and proposal for amendments to repeal and replace Article 27: Planned Unit Development Districts, City of the Village of Douglas Zoning Ordinance, requesting public hearing for Planning Commission Recommendations, for Consideration by City Council. The Douglas Planning Commission shall consider this detailed description of the petition on behalf of the City, to the attention of the Planning and Zoning Administrator. The petition would result in no specific change to the Zoning Map, however the petition would have effect over all properties and all future Planned Unit Development projects proposed within the City of the Village of Douglas, Michigan, following the date of certification of amendments.

Sincerely,

Nicholas P. Wikar
Planning & Zoning Administrator

**ARTICLE 27:
PLANNED UNIT DEVELOPMENT DISTRICT**

Section 27.01 Intent and Purpose

The provisions of this Article provide requirements and standards for the submission, review and approval of applications for planned unit developments (PUD). The PUD regulations are designed to accomplish the objectives of this Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. The permanent preservation of open space, natural areas and the existing small town rural character of Douglas are major objectives of these PUD regulations. To those ends, these PUD regulations are intended to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; and to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the City. Further, it is the purpose of the Planned Unit Development Regulations to promote the intent and purpose of this Ordinance, and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The provisions of this Article are not intended as a device for ignoring or circumventing this Ordinance or the planning upon which it has been based.

Section 27.02 PUD is a Separate District

The purposes, procedures, and standards of this Article are intended to guide the applicant in the preparation of preliminary and final site plans for a PUD, consistent with the purposes stated in Section 27.01. These standards shall be used as the basis for the evaluation of the site plans by the Planning Commission and City Council and shall be considered in reviewing any application for a PUD. Approval of a PUD on property already zoned PUD may proceed only when an application and site plan therefor are determined to be in compliance with the regulations of this Article and those of Article 24; Site Plan Review. Approval of a PUD on property not already zoned PUD results in rezoning to a PUD District only when an application and site plan therefore are determined to be in compliance with the regulations of this Article and those of Article 24; Site Plan Review. A district zoned PUD is an overlay zone. The underlying zone shall establish permitted uses, density and the minimum lot size for consideration as a PUD. A parcel zoned PUD shall have the underlying zone as a prefix on the Zoning Map, such as R-1 PUD. If not otherwise specified on the Zoning Map, or as a result of previously being approved as a PUD, the underlying zone for a PUD shall be R-1 Residential District.

Section 27.03 Eligibility Criteria

To be eligible for Planned Unit Development approval, the applicant must demonstrate that the following criteria will be met:

1) Recognizable and Substantial Benefit. The Planned Unit Development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely to be achieved, taking into consideration the reasonable and foreseeable detriments of the proposed development and use(s); including, without limitation:

- a) The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
- b) Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

2) Minimum Area and Density. The minimum land area necessary to be considered for a PUD shall not be less two (2) acres. The overall density of dwelling units shall not exceed that permitted within the underlying district. See Section 27.04(4). Density may be shifted throughout the site and dwellings may be clustered on lots smaller than those permitted in the underlying zone if doing so better achieves the open space preservation objectives of this Article. Any time less than four (4) newly created lots or dwelling units are proposed to be developed on property already zoned PUD, the standards and procedures in Section 27.10 shall apply.

3) Availability and Capacity of Public Services. The proposed Planned Unit Development shall comply with the provisions of Section 16.20 and shall not exceed the capacity of existing and available public services, including but not necessarily limited to, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the Planned Unit Development is completed. Large PUDs shall conform with the additional impact requirements of Section 27.07(2)(a-c).

4) Compatibility with the Tri-Community Comprehensive Plan. The proposed development shall be consistent with the Tri-Community Comprehensive Plan.

5) Compatibility with the Planned Unit Development Intent. The proposed development shall be consistent with the intent and spirit of these regulations, as stated in Section 27.01.

6) Economic Impact. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the district in which they are located.

7) Unified Control of Property. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Planned Unit Development regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is given immediately to the Zoning Administrator.

8) Dedication of Utilities and Roads. Roads within the PUD development shall meet the standards of Article 18 and Section 16.21. Likewise, utility easements shall be conveyed to the City. Utility easements and roads in PUD developments approved prior to the enactment of this Ordinance may remain in private ownership.

Section 27.04 Project Design Standards

In considering any application for approval of a Planned Unit Development proposal filed according to the procedures of Section 27.05 and application and data requirements of Section 27.06, the Planning Commission and City Council shall make their determinations on the basis of standards set forth for site plan review in Section 24.03, the eligibility criteria of Section 27.03, as well as the following standards and requirements:

1) Location. A Planned Unit Development may be approved in any district, subject to review and approval as provided herein.

2) Compatibility with Adjacent Uses. The proposed Planned Unit Development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

- a) The bulk, placement, and materials of construction of proposed structures.
- b) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
- c) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
- d) The hours of operation of the proposed uses.
- e) The provision of landscaping and other site amenities.

3) Permitted Uses. Any land use authorized in the underlying district may be included in a Planned Unit Development as a principal or accessory use, provided that public health, safety, and welfare are not impaired.

4) Applicable Base Regulations. Unless waived or modified in accordance with subsection (5) below, the yard and lot coverage, parking, loading, landscaping, lighting, and other standards for the underlying district(s) shall be applicable for uses proposed as a part of a Planned Unit Development. Mixed uses shall comply with

the regulations applicable for each individual use, as outlined above, except that if regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply. The site standards for all individual land uses and facilities as provided in this Ordinance (such as special uses) must be observed unless waived by the Planning Commission or City Council for any, or all, of the specific uses and facilities. However, a special use that is part of a PUD shall not be separately processed as a special use, instead it shall be processed as part of the PUD application.

5) Regulatory Flexibility. To encourage flexibility and creativity consistent with the Planned Unit Development concept, departures from the regulations in subsection (4), above, may be permitted, subject to recommendation by the Planning Commission and approval of City Council. For example, such departures may include but are not limited to modifications to: lot dimensional standards; floor area standards; setback requirements; parking, loading, and landscaping requirements; and similar requirements. Such modifications may be permitted only if they will result in a higher quality of development or a better design or layout than would be possible without the modifications. Density standards and the provisions of Section 16.21 Shorelines, right-of-way width requirement of Section 18.02 or the City right-of-way requirement for a public street may not be modified. A modification of up to 50% of the front yard setback requirement of the zoning district may be modified under this regulation.

6) Residential Density. The maximum density permitted in the underlying district may be permitted only upon determination that the desired density will not unreasonably affect water and sewer services, storm water drainage, road capacity, traffic, parks and recreation, fire and police services, schools, character of the area, and any planned public and private improvements in the area.

The maximum number of dwelling units permitted as part of a PUD proposal shall be determined by submittal of a test plan. Such test plan shall illustrate the maximum number of units which can be accommodated by the given site within the parameters of the underlying zoning district and all other applicable portions of this ordinance or any other state and local laws. The lots or uses depicted on the test plan shall be permitted by right, but not guaranteed if site conditions in the proposed plan require significant deviation consideration, and any use or lot division subject to special approval shall not be included as part of a test plan. Such a plan shall be complete with roads and other required easements. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable within the PUD. The actual lot size of most lots approved in a PUD proposal will likely be substantially less than the minimum requirements of the underlying district in order to meet the open space requirements of 27.04(8). The test plan shall be considered a necessary step to submitting a complete application for a PUD and no further site plans for the subject parcel shall be reviewed by the City.

7) Permitted Mix of Uses. Where the existing underlying zoning district is residential, nonresidential uses shall be permitted as part of a Planned Unit Development which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant and the nonresidential use will not create a

nuisance for abutting property. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed uses: extent to which it serves residents in the PUD compared to others who travel to the site, amount of traffic generated; hours of operation or use; noise, odors, and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use.

8) Open Space Requirements. Open space shall at least equal that which would be provided under the maximum lot coverage requirements of the underlying district. For example, if maximum lot coverage is 35%, then minimum open space shall be 65%. A subdivision with most of the open space in individual yards will not meet the standards of this Ordinance. At least half of the minimum open space shall be held in common, not as a part of individual lots. Open space shall be in large contiguous units that are easily accessible, usable, and the residents of the development shall have unrestricted access and use of the open space area unless the City Council as recommended by the Planning Commission finds that unrestricted access and use of the open space is unpractical and unreasonable due to unusual circumstances of the property. Small discontinuous areas of open space are contrary to the intent of this section, although it may be necessary to permit up to twenty (20%) of the total open space area in small discontinuous areas on a given parcel in order to achieve quality design and/or function of the balance of the PUD.

Any land without a structure within the boundaries of the site may be included as required open space, except for submerged lands and land contained in public or private street rights-of-way. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the site plan and never changed to another use. Such conveyance shall:

- a) Ensure the open space is under single ownership or control, such that there is a single person or entity having proprietary responsibility for the open space. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, master deeds, and/or deed restrictions that indicate that open space will be held as proposed.
- b) Guarantee to the satisfaction of the City Council that all open space portions of the development will be maintained in the manner approved. Documents shall be presented to the satisfaction of the City Attorney that bind all successors and future owners in fee title to maintenance commitments made as a part of the approval of the open space.
- c) Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners within the PUD.

9) Frontage and Access. Planned Unit Developments shall front onto a street with adequate capacity to safely accommodate the traffic of the development without unreasonably congesting the street. Road improvements contiguous to the site of the PUD that would improve traffic safety and reduce congestion may be required as a condition of development approval. Access and egress opening from the development onto a public or private street shall be limited to one (1) per two hundred (200) feet. The nearest edge of any entrance or exit drive shall be located no closer than one hundred (100) feet from any street or road intersection (measured from the nearest intersection right-of-way line). All requirements of Article 18 shall also apply to Planned Unit Developments.

10) Utilities. All utilities serving a Planned Unit Development, including electric, telephone, and cable television lines, shall be placed underground, wherever feasible.

11) Privacy for Dwelling Units. The design of a Planned Unit Development shall provide visual and sound privacy for all dwelling units within and surrounding the development. The relationship of adjacent exterior doors and windows shall be offset wherever possible. Fences, walks, and landscaping shall be used in the site design to protect the privacy of dwelling units.

12) Emergency Access. The configuration of buildings, driveways, and other improvements shall permit convenient and direct emergency vehicle access and shall be subject to the International Fire Code and Fire Department review.

13) Pedestrian and Vehicular Circulation. A pedestrian circulation system shall be provided that is isolated as completely as possible from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing or planned streets, sidewalks, and bicycle pathways in the vicinity of the site and complement and implement the recommendations of the Tri-Community Plan.

14) Maximum Height. Except as otherwise provided herein, maximum building height shall be consistent with underlying district.

15) Minimum Spacing. Minimum spacing between detached buildings shall not be less than 15 feet, unless the Planning Commission or City Council authorizes a lesser amount. In no case shall spacing be less than required under the Building Code.

16) Building Length. The front and rear of a multiple family building shall be considered to be the elevations along the longest dimension of said building. The front of the multiple family building shall be considered to be the direction indicated on the drawings by the designer provided is not inconsistent with floor plan of the individual unit; and the side of a multiple family building shall be considered to be the elevation along the narrowest side of said building. No multiple family building shall exceed one hundred twenty (120) feet in length along any one elevation of the building measured in an unbroken plane between its two furthest points.

17) Sensitive Natural Features. All sensitive natural features such as drainage ways and streams, critical dune areas, wetlands, lands within the 100 year floodplains,

and stream or river banks (which by virtue of soil and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by any principal or accessory buildings and structures.

18) Buffer Zone Along Streams. Drainage ways and streams shall be protected by a twenty-five (25) foot natural vegetation strip or public easement measured from the centerline of such drainage ways or streams and measured from the ordinary high water mark for the Kalamazoo River. The standards of Section 16.21 are also applicable and shall not be altered by the regulatory flexibility provision of Section 27.04(5).

19) Buffer Zone Along Property Lines. Natural vegetation, planted or landscaped buffer areas of twenty-five (25) feet width are required along all exterior boundaries of the property to be developed as a PUD.

20) Parking Areas. The parking area shall be designed so as to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanse of surfaced area. However, landscaped areas in parking lots shall be large enough to support thriving vegetation and are greatly preferred over many small landscape islands.

21) Common Property. Common property in the PUD is an area, parcel or parcels of land, a privately owned road, or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites or condominiums within the PUD. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreational facilities (such as a club house or tennis courts). The applicant shall guarantee to the satisfaction of the City Attorney that all common property portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the approval of the common property. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the City and the land use continues as approved.

22) Easements Across Common Property. When common property exists in private ownership, the owners shall grant easements, over, under and through such property to the City as are required for public purposes.

Section 27.05 Procedures and Requirements

A. Pre-Application Conference. An applicant for a PUD rezoning shall participate in a pre-application conference prior to submitting an application for PUD approval and rezoning. The purpose of the pre-application conference is to inform the City of the preliminary concept and basic details of the proposed development and to provide the applicant with information regarding the requirements and procedures of the PUD District. The pre-application conference shall include the applicant, the City Manager, Planning

Commission chairman, Mayor and other persons as deemed appropriate. At the pre-application conference the applicant shall submit, at a minimum the following:

1. A written statement describing the types of land use proposed for the PUD.
 2. A sketch plan of the proposed PUD, in at least four copies, which includes at least the following information:
 - a. The address and legal description of the land.
 - b. The gross land area, in acres, of the proposed development and also the gross land area, in acres, comprising each of the required categories of land use.
 - c. If the PUD is proposed to include residential use, a statement of the number and nature of the residential units.
 - d. A statement as to the type and nature of the commercial and/or office uses, as the case may be, and including such other information with respect to such uses as will enable the Zoning Administrator to determine preliminarily whether such uses are permitted under the terms of this Article.
 - e. The percentage of required open space, and the projected locations of open space, within the proposed development.
 - f. A statement or other description or depiction of the natural features on the site, including those proposed to be preserved and those to be removed or modified for development purposes.
 - g. Such other information as may reasonably be requested by the Zoning Administrator for purposes of evaluating preliminarily whether the proposed PUD would comply with the minimum requirements as stated in this Article.
 - h. A written statement of any requested departures from the provisions of this Ordinance, in cases where departures are authorized under the terms of this Article, together with the rationale for such requested departures.
- B. Application and Preliminary PUD Plan. An applicant for a PUD rezoning shall submit the following to the City:
1. A completed application for PUD rezoning, on a form provided by the City.
 2. A preliminary PUD plan with the number of copies stated on the City PUD application form. The preliminary PUD plan shall also be submitted in an electronic version, in pdf format, and also in a reduced-size, 11"x17" paper version.

3. Written proof, satisfactory to the City, that the applicant, and/or other persons acting with the applicant, shall have unified ownership or control of the land proposed for the PUD, such that there is one person, group of persons or legal entity that would have complete responsibility for the design, construction and completion of the PUD in accordance with the approved PUD plan and ordinance.
 4. The required application fee and zoning escrow deposit.
- C. Optional Advisory Public Hearing. The Planning Commission may, in its discretion, convene an advisory public hearing in order to receive public comments concerning a proposed PUD development.
1. If the Planning Commission determines to convene an advisory public hearing, it shall so notify the applicant, and the applicant shall then prepare a preliminary PUD plan complying with subsection (D) of this section. At the advisory public hearing, the Planning Commission shall review the preliminary PUD plan.
 2. Notice of an advisory public hearing shall be given by publication in a newspaper of general circulation in the City. Such notice shall be published at least 15 days prior to the advisory public hearing. Notice of the advisory public hearing shall also be mailed or delivered personally to all persons to whom any real property is assessed within 300 feet of the lands included in the proposed PUD. The notice shall be mailed or delivered personally to the respective addresses given in the last property tax assessment roll not less than 15 days prior to the date of the advisory public hearing.
 3. At the advisory public hearing, the Planning Commission shall invite comments from the applicant and other interested persons. Following the public hearing, the Planning Commission may provide the applicant with such comments or proposals with respect to the proposed development as the commission members deem appropriate.
 4. If the Planning Commission finds it in the public interest to conduct another advisory public hearing due to the number of changes to the initial plan, they may do so following the process outlined above.
- D. Preliminary PUD Plan. The preliminary PUD plan shall include the following:
1. A drawing at a scale of one inch equaling 100 feet or less, showing the lands to be included in the PUD. The preliminary PUD plan shall state, describe or depict the following:
 - a. The legal description of the land.
 - b. The area (in acres) of the land shall be stated (1) as the total acreage of the entire PUD; (2) the areas (in acres) within the PUD that are proposed to be developed for commercial, office and residential uses, respectively; and (3) the area (in acres) of

the land that is proposed to remain undeveloped.

- c. The location and dimensions of existing and proposed property lines and building setback lines.
- d. The location and dimensions of existing and proposed buildings and other structures.
- e. Proposed uses of buildings and other structures.
- f. Existing and proposed topographic contours at five-foot intervals.
- g. Significant existing vegetation and other significant existing natural features, including floodplains, woodlands and wetlands.
- h. Existing and proposed watercourses and water bodies.
- i. Existing public and private streets, and street rights-of-way; existing access easements.
- j. Proposed streets and drives; curb cuts and access easements; acceleration, deceleration and passing lanes and sidewalks.
- k. Existing uses, buildings, structures, driveways and off-street parking areas within 300 feet of the subject property.
- l. Proposed off-street parking areas and off-street loading and unloading areas.
- m. Existing and proposed public water supply and public sanitary sewage disposal facilities as to the description and location thereof.
- n. Proposed storm water management systems, including storm sewers, retention and/or detention ponds, storm water discharge areas and other storm water management measures as to the description and location thereof.
- o. Public utilities in and for the PUD, including natural gas, electric, telephone and other community services, if any, such as cable television and Internet access as to the types of utility services proposed to be provided.
- p. Buildings and other facilities for public or community use.
- q. Proposed areas of landscaping and general types of plantings.
- r. Proposed signs as to anticipated locations and the size, height and type thereof.
- s. Outdoor lighting, as to expected locations and the proposed type and height of outdoor lighting fixtures.
- t. Fences, walls and other screening features.
- u. Refuse and service areas, including screening measures for

- trash receptacles.
- v. Open space areas and proposed uses thereof, if any.
 - w. Location of state-regulated wetlands and other wetlands, if any.
 - x. Tentative elevation views of the front, side and rear of each building.
 - y. Additional information which the Planning Commission may request in order to fully evaluate the preliminary PUD plan. This may include an Environmental Assessment and/or Traffic Study as outlined in Section 24.02.21.
2. It is not necessary that the preliminary plan include construction details or such other data as may require engineering expertise or such other professional analysis more appropriate to a final plan, rather than a preliminary plan. As provided elsewhere in this section, the Planning Commission may in its discretion, require additional background or information if necessary for a sufficient evaluation of the preliminary plan.
 3. In the approval of the PUD, the Planning Commission and City Council may waive any element, component or depiction otherwise required to be included in the preliminary PUD plan if such matters are not deemed necessary for City review and consideration of the PUD.
 4. A written description or summary of the PUD, including the following matters:
 - a. The overall objectives of the proposed PUD.
 - b. The number, size and basic description of proposed buildings and structures.
 - c. A statement describing how the proposed PUD will promote the intents and purposes of the PUD District.
 - d. A statement from a licensed professional engineer, or alternatively, the City Engineer, indicating the relative capacities of the public water supply and the public sanitary sewer systems proposed to serve the development.
 5. The application for the PUD approval shall also include the following information:
 - a. The applicant's name, business address, telephone number and email address.
 - b. The name and address of the owner(s) of record if the applicant is not the owner of record and the signature(s) of the owner(s).
 - c. The property tax identification number(s) of the land.
 - d. The name, address, telephone number and email address of the applicant's engineer, land-use planner, architect, land

surveyor and other professional consultants.

- e. A time-schedule of proposed construction, including the anticipated completion date and proposed phases of development of the PUD.
 - f. A written statement describing the impacts of the PUD on existing infrastructure (including traffic impact and effects on the capacity of streets, schools and utilities) and on the natural environment and adjoining and other lands.
 - g. The property owner's signed consent for City representatives to enter and inspect the land for the purpose of reviewing the PUD plan and the current condition of the land.
- E. Final PUD Plan. Following the advisory public hearing, if such a hearing is convened, or otherwise following the pre-application conference, the applicant shall prepare a final PUD plan and submit the plan to the City.
1. The final PUD plan shall contain all of the data, information and submittals required for a preliminary PUD plan as stated in subsection (D) of this section. In addition, the final PUD plan shall include such other matters and information as may have been required by the Planning Commission following the advisory public hearing, if such a hearing was convened.
 2. In addition, the final PUD plan shall include the following:
 - a. Existing and proposed topography of the lands comprising the PUD shall be shown at two-foot contour intervals.
 - b. A boundary survey of the lands comprising the PUD, prepared by a registered land surveyor, shall be submitted.
 - c. All of the development requirements stated in Section 27.04 shall be addressed or otherwise included in the final PUD plan.
- F. Planning Commission Consideration of Final PUD Plan. A final PUD plan shall be considered by the City as follows:
1. The final PUD plan shall be reviewed by the Zoning Administrator to determine whether the plan sufficiently complies with subsections (D) and (E) of this section, and thus whether the plan is eligible for consideration by the Planning Commission. If the plan is complete, the Zoning Administrator shall forward the plan to the Planning Commission.
 2. The Planning Commission shall convene a public hearing to consider the final PUD plan and the proposed PUD ordinance. The public hearing shall be held in accordance with City and state requirements for the rezoning of lands. The Commission may continue its consideration of the final plan during subsequent meetings.
 3. In considering the final PUD plan and/or the proposed rezoning, the

Planning Commission shall consider whether the proposed PUD satisfies the minimum requirements of this Article and the standards for approval set forth in Section 27.06.

4. After the public hearing, the Planning Commission shall recommend that the City Council (1) approve the proposed PUD rezoning in accordance with the final PUD plan, (2) approve the rezoning subject to conditions, or (3) deny the rezoning.
 - a. The recommendation by the Planning Commission shall be included in a motion or in a resolution. The terms and conditions of approval or the grounds for denial, as the case may be, shall be included.
 - b. The Planning Commission's recommendation shall include a recommendation on departures or modifications, if any, from the requirements of this Article proposed by the applicant, including the grounds upon which the Planning Commission recommends, or does not recommend, such departures or modifications.
 - c. In considering its recommendation on the final PUD plan, the Planning Commission shall consider the standards stated in Section 27.06.
 5. To aid the City in its consideration of the effects and results of the development of the land as proposed in the final PUD plan, the Planning Commission may require an Environmental Assessment or Traffic Study as outlined in Section 24.02.21
- G. City Council Consideration of Final PUD Plan. The City Council shall review the final PUD Plan and proposed rezoning and the recommendation and other materials submitted by the Planning Commission. The City Council shall determine whether the final PUD plan complies with the requirements of this Article and the standards in Section 27.06. Following completion of its review, the City Council shall adopt an ordinance approving, approving with conditions, or denying the PUD rezoning application.

Section 27.06 Standards of Approval.

In approving a rezoning of land to the PUD District, the Planning Commission and City Council shall find that the proposed PUD complies with the following standards:

- A. The PUD will result in a recognizable and substantial benefit to the residents of the PUD and the City, and such benefit would otherwise be unlikely to be achieved.
- B. The PUD will not result in an undue burden on available public services, facilities or utilities.
- C. The PUD will comply with the land use designations for such lands in the future land use map of the Master Plan; the PUD will otherwise be consistent with the intent and purposes of this Chapter, and the Master Plan.

- D. The PUD satisfies the development requirements of Section 27.04.
- E. The PUD will not result in significant adverse effects upon adjacent or nearby lands.
- F. The PUD will not alter wetlands, steep slopes or other natural features except as approved for essential services or as otherwise permitted in the PUD.
- G. Buildings and structures will be suitably located and arranged, with adequate setbacks and convenient access points.
- H. The number, location and size of access points for the PUD, and internal traffic and pedestrian circulation routes are designed to promote safe and efficient access to and from the PUD and circulation within the PUD.
- I. Storm water detention and drainage systems will be designed so that the removal of surface waters will not adversely affect lands in the PUD or adjacent or nearby lands. The final PUD plan shall demonstrate compliance with the City Storm Water Ordinance.
- J. Landscaping in the PUD will be in accordance with City landscape requirements or as they may be modified in the approval of the PUD.
- K. Outdoor lighting will be designed to minimize glare on adjacent lands and streets and will otherwise be designed, installed and operated in compliance with City requirements, or as otherwise approved in the terms of the PUD ordinance.
- L. Sanitary sewer and water supply facilities will comply with City and other applicable requirements.
- M. Signs in and for the PUD will comply with applicable sign requirements, including such modifications as may be permitted in the approval of the PUD.
- N. Off-street parking areas and facilities will comply with applicable City requirements, including such modifications as may be permitted in the approval of the PUD.

Section 27.07 Conditions on Approval

The Planning Commission may recommend and the City Council may impose reasonable conditions upon approval of a rezoning of land to the PUD District. Such conditions may include conditions necessary (1) to ensure that public services and facilities affected by the PUD will be capable of accommodating increased service use and demand caused by the PUD; (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. Conditions imposed shall comply with all of the following requirements:

- A. They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of the users of land within the PUD, the owners of land adjacent to the PUD and the City in general.

- B. They shall be consistent with the valid exercise of City regulatory authority.
- C. They shall be necessary to ensure compliance with the intent and purposes of this Article.

The conditions imposed with respect to the approval of the PUD application shall be included in the ordinance that rezones the land to the PUD district. Such conditions shall remain unchanged except upon amendment of the PUD ordinance.

Section 27.08 Phasing of Construction of PUD

- A. The commercial, office and residential elements of the PUD shall be constructed generally concurrently, upon such schedule or within such phases as may be approved by the Planning Commission and City Council.
- B. If a PUD is authorized for construction in phases, the PUD shall be designed so that each phase, when completed, shall include all services, facilities and open space necessary for the full occupancy and use of that phase. Further, each phase shall include all necessary elements to ensure protection of natural features and the health, safety and welfare of the residents and users of the PUD.
- C. The PUD ordinance may limit or prohibit the issuance of building permits and certificates of occupancy until all public services and facilities within a phase of the PUD are fully complete, or alternatively, the PUD ordinance may require that a letter of credit or other security be provided as a condition of the issuance of such permits or certificates prior to the completion of all public services and facilities within a phase.
- D. Each phase of an PUD shall be commenced and/or completed within the time period specified in the PUD ordinance. If construction of a phase is not commenced within the required time period, the provisions on expiration of PUD approval set forth in Section 27.10 shall apply.

Section 27.09 Effect of Approval

Approval of a PUD upon the adoption and effectiveness of the PUD ordinance shall constitute an amendment in the City zoning map. All improvements and land uses within the PUD shall comply with the PUD ordinance and all terms and conditions thereof. Violation of the PUD ordinance shall be a violation of this Ordinance, and accordingly, the City shall have all remedies and means of enforcement permitted by law.

Section 27.10 Expiration of PUD Approval

- A. A PUD shall be under construction, and be proceeding reasonably toward completion, within one year after adoption of the PUD ordinance by the City Council. If a PUD is not under construction or reasonably proceeding within this period of time, the City Council may grant an extension of up to one year if the applicant submits evidence demonstrating that unforeseen difficulties or unusual circumstances have caused delay in commencement or continuance of construction.

- B. If construction of the PUD has not been commenced, or if construction has not reasonably continued, within the initial required period of time or within any approved extension granted under subsection (1) of this section, any building permits issued for construction within the PUD shall be of no further effect, and the Planning Commission and City Council may, in their discretion, initiate and complete proceedings for the rezoning of the land to some other zoning district.

Section 27.11 Performance Guarantee

- A. In the approval of a PUD, the City shall require a reasonable performance guarantee to assure the construction and completion of public services and facilities or other components of the PUD. Such performance guarantee may be in the form of a cash deposit, letter of credit, or other form of guarantee acceptable to the City. The amount and nature of the performance guarantee shall be specified in the PUD ordinance, or alternatively, the amount and nature of the performance guarantee may be subsequently determined by the Planning Commission.
- B. The performance guarantee, in whatever form, shall be conditioned upon timely and faithful compliance with all applicable provisions of the PUD ordinance and construction and completion of all services, facilities and other improvements specified for completion under the terms of the PUD ordinance and the approved plan of the development.
- C. The Planning Commission may recommend to the Zoning Administrator a refund of a proportionate share of the amount of a letter of credit or other performance guarantee, based upon the percentage or other portion of the required improvements that have been completed.

Section 27.12 Amendment of a PUD

- A. Procedure for Amendment. An approved PUD, including all terms and conditions of the PUD ordinance, may be amended or revised only in accordance with the procedures stated in this Chapter for approval of a new PUD, except with respect to minor changes in an PUD under subsection (2) of this section.
- B. Minor Changes. A minor change in a PUD may be approved by the Zoning Administrator. In approving a minor change, the Zoning Administrator shall determine that the proposed change does not materially alter the basic design of the PUD or the conditions of its approval. Upon approving a minor change, the Zoning Administrator shall notify the Planning Commission and City Council of the nature and extent of the minor change. Only the following changes in an PUD are minor changes that are eligible for approval by the Zoning Administrator:
 - 1. Reduction of the size of a building, building envelope or sign.
 - 2. Movement of a building or sign by no more than ten feet.
 - 3. Replacement of plantings by other similar plantings.

4. Changes requested by the City for safety reasons.
5. Changes which will preserve natural features of the land without changing the basic layout or design of the PUD.
6. Changes in the boundary lines of lots which do not change the overall density of the development, do not reduce the width of any lot by more than ten percent and which do not materially change the average lot or unit width throughout the PUD.
7. Additions to or alterations in the landscape plan or landscape materials which do not reduce the extent or quality of the landscaping in the PUD.
8. Alterations in the internal layout of an off-street parking area, if the total number of parking spaces and means of ingress and egress do not change.
9. Relocation of trash receptacles or other measures for the collection and disposal of refuse.
10. Other similar changes of a minor nature proposed to be made in the configuration, design, layout or topography of the PUD which are deemed by the Zoning Administrator to be not material or significant in relation to the entire PUD and which the Zoning Administrator determines would not have a significant adverse effect on the development of adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding a proposed minor change in an approved PUD to the Planning Commission for review and for a determination as to whether the proposed change is a minor change and if so, whether it should be approved. In such a case, the decision with respect to the proposed minor change shall be made by the Planning Commission, by majority vote of those members present and voting, rather than by the Zoning Administrator.

If the Zoning Administrator determines that a requested change in an approved PUD is not a minor change within the provisions of this section, the change shall then be considered by the Planning Commission and City Council as an amendment in the PUD, and accordingly, all of the procedures required for the consideration and approval of an original PUD application shall apply.

**ARTICLE 3:
ZONING DISTRICTS AND MAP**

Section 3.01 Establishment of Districts

For the purpose of this Ordinance the City is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names.

- R-1: Residential District
- R-2: Residential District
- R-3: Neighborhood Conservation District
- R-4: Harbor Residential District
- R-5: Multiple Family District
- R-6: Mobile Home Park District
- C-1: Village Central District
- C-2: General Commercial District
- L-I: Light Industrial District

Section 3.02 Zoning District Map

The boundaries of the respective districts enumerated in Section 3.01 are defined and established as depicted on the map entitled THE CITY OF THE VILLAGE OF DOUGLAS ZONING MAP which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as fully described herein.

This Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the following: "This is to certify that this is the Official Zoning Map of the City Zoning Ordinance adopted on the 18th day of May, 2009. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map after amendment has been approved by the City Council together with an entry on the Official Zoning Map as follows: On (date), by official action of the City Council, the following change(s) were made: (brief description of changes)."

Two (2) copies of the Official Zoning Map are to be maintained and kept up-to-date, one (1) in the City Clerk's office, and one (1) in the Zoning Administrator's office.

setback area, open space, or off-street parking or loading space similarly required for any other use, building or structure, except as provided in a PUD approved pursuant to **this Ordinance**.

4) No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

5) No portion of one lot, once established and/or improved with a building or structure shall be reduced in size unless each lot resulting from each such reduction, division, or sale, shall conform with all of the requirements established herein (see also Article 17).

6) Accessory uses are permitted as indicated for the various Zoning Districts and if such uses are clearly incidental to the permitted principal uses. (See also Section 16.13.)

Section 3.06 Zoning of Vacated Areas

Whenever any street, alley or other public way within the City shall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and shall be used for those uses as is permitted under this Ordinance for such adjoining lands.

Section 3.07 Zoning of Filled Lands: Use of Water

No fill shall be placed in any wetland, lake or stream without proof of a valid permit therefore from the Michigan Department of Environmental Quality. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land which the use abuts.

Section 3.08 Conflicting Regulations

Wherever any provision of the Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose

more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

Section 3.09 Categories Within Zone Districts

In order to ensure all possible benefits and protection for the zone districts in this Ordinance, the land uses have been classified into **two (2)** categories:

1) **Uses Permitted By Right**: The primary uses and structures specified for which the zone district has been established.

2) Uses Permitted By Special Use Permit: Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zone district, but could have potential negative effects upon the primary uses and structures within the zone district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing following review by the Planning Commission. Refer to Article 25 and **26**.

Section 3.10 Prior Approvals

A project approved under the terms and conditions of the prior zoning ordinance shall maintain said approval. For a site plan or a site plan as part of a special land use, the rules, regulations and conditions of the original approval under the prior zoning ordinance shall remain in effect for a period as specified in Section 24.06(3) of the prior zoning ordinance. For a Planned Unit Development, the rules, regulations and conditions of the original approval under **a** prior zoning ordinance **of the City** shall remain in effect for **the** period as specified in **the** prior zoning ordinance. If an approved **PUD** plan expires under **those** terms, a new **PUD** plan will need to be submitted for review and approval under the terms, regulations and conditions of this zoning ordinance.

Section 16.34 Planned Unit Development

1) PURPOSE.

The provisions of this **Section** provide requirements and standards for the submission, review and approval of applications for planned unit developments (PUD). The PUD regulations are designed to accomplish the objectives of this Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. The permanent preservation of open space, natural areas and the existing small town rural character of Douglas are major objectives of the PUD regulations.

The PUD regulations are intended to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; and to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the City. Further, it is the purpose of the Planned Unit Development to promote the intent and purpose of this Ordinance, and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

The **PUD** provisions are not intended as a device for ignoring or circumventing this Ordinance or the planning upon which it has been based. All improvements and land uses within the PUD shall comply with the **Ordinance** and all terms and conditions thereof. Violation of this Ordinance, and accordingly, the City shall have all remedies and means of enforcement permitted by law.

2) APPLICATION FOR PLANNED UNIT DEVELOPMENT APPROVAL.

To be eligible for Planned Unit Development, the applicant must demonstrate that the following criteria:

- a) The applicant's name, business address, telephone number and email address.
- b) The name and address of the owner(s) of record if the applicant is not the owner of record and the signature(s) of the owner(s).
- c) The property tax identification number(s) of the land.
- d) The name, address, telephone number and email address of the applicant's engineer, land-use planner, architect, land surveyor and other professional consultants.
- e) A time-schedule of proposed construction, including the anticipated completion date and proposed phases of development of the PUD.
- f) A written statement describing the impacts of the PUD on existing infrastructure (including traffic impact and effects on the capacity of streets, schools and utilities) and on the natural environment and adjoining and other lands.
- g) The property owner's signed consent for City representatives to enter and inspect the land for the purpose of reviewing the PUD plan and the current condition of the land.
- h) A completed **Site Plan Review application and Special Use Permit application**

form provided by the City, with the required application fees.

- i) A PUD plan with the number of copies and prepared to the standard as stated in Section 24.02. The PUD plan shall also be submitted in an electronic version, in .pdf format, and in a reduced-size, 11"x17" paper version.
- j) Signed and notarized affidavit, satisfactory to the City, that the applicant, and/or other persons acting with the applicant, shall have unified ownership or control of the land proposed for the PUD, such that there is one person, group of persons or legal entity that would have complete responsibility for the design, construction, and completion of the PUD in accordance with the approved PUD plan and ordinance.
- d) A written statement describing the types of land use proposed for the PUD.
- e) A test plan of the proposed PUD, in at least four copies, which includes at least the following information:
 - f) The address and legal description of the land.
 - g) The gross land area, in acres, of the proposed development and also the gross land area, in acres, comprising each of the required categories of land use.
 - h) If the PUD is proposed to include residential use, a statement of the number and nature of the residential units.
 - i) A statement as to the type and nature of the commercial and/or office uses, as the case may be, and including such other information with respect to such uses as will enable the Zoning Administrator to determine preliminarily whether such uses are permitted under the terms of this Article.
 - j) The percentage of required open space, and the projected locations of open space, within the proposed development.
 - k) A statement or other description or depiction of the natural features on the site, including those proposed to be preserved and those to be removed or modified for development purposes.
 - l) Such other information as may reasonably be requested by the Zoning Administrator for purposes of evaluating preliminarily whether the proposed PUD would comply with the minimum requirements as stated in this Article.
- m) A written statement of any requested departures from the provisions of this Ordinance, in cases where departures are authorized under the Ordinance.
- n) Recognizable and Substantial Benefit. The Planned Unit Development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely to be achieved, taking into consideration the reasonable and foreseeable detriments of the proposed development and use(s); including, without limitation:
 - (i) The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;

- (ii) Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
- o) Minimum Area and Density. The minimum land area necessary to be considered for a PUD shall not be less two (2) acres. The overall density of dwelling units shall not exceed that permitted within the underlying district. Density may be shifted throughout the site and dwellings may be clustered on lots smaller than those permitted in the underlying zone if doing so better achieves the open space preservation objectives of this Article. Any time less than four (4) newly created lots or dwelling units are proposed to be developed on property already zoned PUD, the standards and procedures in Section 26.XX shall apply.
- p) Availability and Capacity of Public Services. The proposed Planned Unit Development shall comply with the provisions of Section 16.20 and shall not exceed the capacity of existing and available public services, including but not necessarily limited to, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the Planned Unit Development is completed. Large PUDs shall conform with the Additional Impact Requirements of Section 26.XX(X).
- q) Compatibility with the Tri-Community Comprehensive Plan. The proposed development shall be consistent with the Tri-Community Comprehensive Plan.
- r) Compatibility with the Planned Unit Development Intent. The proposed development shall be consistent with the intent and spirit of these regulations, as stated in Section 16.34.
- s) Economic Impact. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the district in which they are located.
- t) Unified Control of Property. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Planned Unit Development regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is given immediately to the Zoning Administrator.
- u) Dedication of Utilities and Roads. Roads within the PUD development shall meet the standards of Article 18 and Section 16.21. Likewise, utility easements shall be conveyed to the City. Utility easements and roads in PUD developments approved prior to the enactment of this Ordinance may remain in private ownership.

3) REVIEW OF PRELIMINARY PUD PLANS BY THE PLANNING COMMISSION.

It is not necessary that the preliminary plan include construction details or such other data

as may require engineering expertise or such other professional analysis more appropriate to a final plan, rather than a preliminary plan. As provided elsewhere in this section, the Planning Commission may in its discretion, require additional background or information if necessary for a sufficient evaluation of the preliminary plan.

The Preliminary PUD plan shall include, state, describe or depict the following:

- a) A written description or summary of the PUD, including the following matters:
 - (i) A written description or summary of the PUD, including the following matters:
 - (ii) The overall objectives of the proposed PUD.
 - (iii) The number, size and basic description of proposed buildings and structures.
 - (iv) A statement describing how the proposed PUD will promote the intents and purposes of the PUD District.
 - (v) A statement from a licensed professional engineer, or alternatively, the City Engineer, indicating the relative capacities of the public water supply and the public sanitary sewer systems proposed to serve the development.
- b) The legal description of the land.
- c) The area (in acres) of the land shall be stated:
 - (i) As the total acreage of the entire PUD;
 - (ii) The areas (in acres) within the PUD that are proposed to be developed for commercial, office and residential uses, respectively; and
 - (iii) The area (in acres) of the land that is proposed to remain undeveloped.
- d) The location and dimensions of existing and proposed property lines and building setback lines.
- e) The location and dimensions of existing and proposed buildings and other structures.
- f) Proposed uses of buildings and other structures.
- g) Existing and proposed topographic contours at two-foot intervals.
- h) Significant existing vegetation and other significant existing natural features, including floodplains, woodlands and wetlands.
- i) Existing and proposed watercourses and water bodies.
- j) Existing public and private streets, and street rights-of-way; existing access easements.
- k) Proposed streets and drives; curb cuts and access easements; acceleration, deceleration and passing lanes and sidewalks.
- l) Existing uses, buildings, structures, driveways and off-street parking areas within 300 feet of the subject property.
- m) Proposed off-street parking areas and off-street loading and unloading areas.

- n) Existing and proposed public water supply and public sanitary sewage disposal facilities as to the description and location thereof.
- o) Proposed storm water management systems, including storm sewers, retention and/or detention ponds, storm water discharge areas and other storm water management measures as to the description and location thereof.
- p) Public utilities in and for the PUD, including natural gas, electric, telephone and other community services, if any, such as cable television and Internet access as to the types of utility services proposed to be provided.
- q) Buildings and other facilities for public or community use.
- r) Proposed areas of landscaping and general types of plantings.
- s) Proposed signs as to anticipated locations and the size, height and type thereof.
- t) Outdoor lighting, as to expected locations and the proposed type and height of outdoor lighting fixtures.
- u) Fences, walls and other screening features.
- v) Refuse and service areas, including screening measures for trash receptacles.
- w) Open space areas and proposed uses thereof, if any.
- x) Location of state-regulated wetlands and other wetlands, if any.
- y) Tentative elevation views of the front, side and rear of each building.
- z) Additional information which the Planning Commission may request in order to fully evaluate the preliminary PUD plan. This may include an Environmental Assessment and/or Traffic Study as outlined in Section 24.02.21.

In the approval of the Preliminary PUD, the Planning Commission may waive any element, component or depiction otherwise required to be included in the preliminary PUD plan if such matters are not deemed necessary for City review and consideration of the PUD. The Planning Commission may require an Environmental Assessment or Traffic Study as outlined in Section 24.02.21

4) REVIEW AND APPROVAL OF FINAL PUD PLANS BY CITY COUNCIL

The City Council shall review the final PUD Plan, the recommendation submitted by the Planning Commission, and other materials for necessary development agreements. The City Council shall determine whether the final PUD plan complies with the requirements of this Section. Following completion of its review, the City Council shall approving, approving with conditions, or denying the PUD rezoning application.

1. The PUD plan shall contain all of the data, information and submittals required for a preliminary PUD plan as stated in subsection (D) of this section. In addition, the final PUD plan shall include such other matters and information as may have been required by the Planning Commission following the advisory public hearing, if such a hearing was convened.

2. In addition, the final PUD plan shall include the following:
 - a. Existing and proposed topography of the lands comprising the PUD shall be shown at two-foot contour intervals.
 - b. A boundary survey of the lands comprising the PUD, prepared by a registered land surveyor, shall be submitted.
 - c. All of the development requirements stated in Section 26.XX shall be addressed or otherwise included in the final PUD plan.

4) STANDARDS FOR APPROVAL

- a) The Planning Commission may recommend and the City Council may impose reasonable conditions upon approval of a rezoning of land to the PUD District. Such conditions may include conditions necessary (1) to ensure that public services and facilities affected by the PUD will be capable of accommodating increased service use and demand caused by the PUD; (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. Conditions imposed shall comply with all of the following requirements:
 - b) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of the users of land within the PUD, the owners of land adjacent to the PUD and the City in general.
 - c) They shall be consistent with the valid exercise of City regulatory authority.
 - d) They shall be necessary to ensure compliance with the intent and purposes of this Section.

5) CONSTRUCTION IN COMPLIANCE WITH APPROVED PLANS

- a) In the approval of a PUD, the City shall require a reasonable performance guarantee to assure the construction and completion of public services and facilities or other components of the PUD. Such performance guarantee may be in the form of a cash deposit, letter of credit, or other form of guarantee acceptable to the City. The amount and nature of the performance guarantee shall be specified in the PUD ordinance, or alternatively, the amount and nature of the performance guarantee may be subsequently determined by the Planning Commission.
- b) The performance guarantee, in whatever form, shall be conditioned upon timely and faithful compliance with all applicable provisions of the PUD ordinance and construction and completion of all services, facilities and other improvements specified for completion under the terms of the PUD ordinance and the approved plan of the development.
- c) The Planning Commission may recommend to the Zoning Administrator a refund of a proportionate share of the amount of a letter of credit or other performance guarantee, based upon the percentage or other portion of the required improvements that have been completed.

6) COMPLETION OF IMPROVEMENTS

- a) The commercial, office and residential elements of the PUD shall be constructed generally concurrently, upon such schedule or within such phases as may be approved

by the Planning Commission and City Council.

b) If a PUD is authorized for construction in phases, the PUD shall be designed so that each phase, when completed, shall include all services, facilities and open space necessary for the full occupancy and use of that phase. Further, each phase shall include all necessary elements to ensure protection of natural features and the health, safety and welfare of the residents and users of the PUD.

c) The PUD ordinance may limit or prohibit the issuance of building permits and certificates of occupancy until all public services and facilities within a phase of the PUD are fully complete, or alternatively, the PUD ordinance may require that a letter of credit or other security be provided as a condition of the issuance of such permits or certificates prior to the completion of all public services and facilities within a phase.

d) Each phase of an PUD shall be commenced and/or completed within the time period specified in the PUD ordinance. If construction of a phase is not commenced within the required time period, the provisions on expiration of PUD approval set forth in Section 26.XX shall apply.

7) [INCORPERATION OF CONDOMINIUM PLANS]

8) REVISIONS OF APPROVED FINAL PUD PLANS

a) Procedure for Amendment. An approved PUD, including all terms and conditions of the PUD ordinance, may be amended or revised only in accordance with the procedures stated in this Chapter for approval of a new PUD, except with respect to minor changes in an PUD under subsection (2) of this section.

b) Minor Changes. A minor change in a PUD may be approved by the Zoning Administrator. In approving a minor change, the Zoning Administrator shall determine that the proposed change does not materially alter the basic design of the PUD or the conditions of its approval. Upon approving a minor change, the Zoning Administrator shall notify the Planning Commission and City Council of the nature and extent of the minor change. Only the following changes in an PUD are minor changes that are eligible for approval by the Zoning Administrator:

c) Reduction of the size of a building, building envelope or sign.

d) Movement of a building or sign by no more than ten feet.

e) Replacement of plantings by other similar plantings.

f) Changes requested by the City for safety reasons.

g) Changes which will preserve natural features of the land without changing the basic layout or design of the PUD.

h) Changes in the boundary lines of lots which do not change the overall density of the development, do not reduce the width of any lot by more than ten percent and which do not materially change the average lot or unit width throughout the PUD.

i) Additions to or alterations in the landscape plan or landscape materials which do not reduce the extent or quality of the landscaping in the PUD.

j) Alterations in the internal layout of an off-street parking area, if the total number of parking spaces and means of ingress and egress do not change.

k) Relocation of trash receptacles or other measures for the collection and disposal of

refuse.

l) Other similar changes of a minor nature proposed to be made in the configuration, design, layout or topography of the PUD which are deemed by the Zoning Administrator to be not material or significant in relation to the entire PUD and which the Zoning Administrator determines would not have a significant adverse effect on the development of adjacent or nearby lands or the public health, safety and welfare.

m) The Zoning Administrator may refer any decision regarding a proposed minor change in an approved PUD to the Planning Commission for review and for a determination as to whether the proposed change is a minor change and if so, whether it should be approved. In such a case, the decision with respect to the proposed minor change shall be made by the Planning Commission, by majority vote of those members present and voting, rather than by the Zoning Administrator.

n) If the Zoning Administrator determines that a requested change in an approved PUD is not a minor change within the provisions of this section, the change shall then be considered by the Planning Commission and City Council as an amendment in the PUD, and accordingly, all of the procedures required for the consideration and approval of an original PUD application shall apply.

9) [INCORPERATION OF RECORD OF APPROVAL]

10) [TIME LIMITATION ON DEVELOPMENT]

Section 26.XX Planned Unit Development, Mixed-Use Planned Unit Development

An applicant for a PUD shall apply for review by the Planning Commission pursuant Section 16.34 and Article 25, with PUD Plan pursuant to the following to the City:

1) Location Requirements. A Planned Unit Development may be approved in any district, subject to review and approval as provided herein.

2) Site Requirements. The proposed Planned Unit Development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

- a) The bulk, placement, and materials of construction of proposed structures.
- b) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
- c) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
- d) The hours of operation of the proposed uses.
- e) The provision of landscaping and other site amenities.

3) Performance Standards

- a) Permitted Uses. Any land use authorized in the underlying district may be included in a Planned Unit Development as a principal or accessory use, provided that public health, safety, and welfare are not impaired.
- b) Applicable Base Regulations. Unless waived or modified in accordance with subsection (5) below, the yard and lot coverage, parking, loading, landscaping, lighting, and other standards for the underlying district(s) shall be applicable for uses proposed as a part of a Planned Unit Development. Mixed uses shall comply with the regulations applicable for each individual use, as outlined above, except that if regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply. The site standards for all individual land uses and facilities as provided in this Ordinance (such as special uses) must be observed unless waived by the Planning Commission or City Council for any, or all, of the specific uses and facilities. However, a special use that is part of a PUD shall not be separately processed as a special use, instead it shall be processed as part of the PUD application.
- c) Regulatory Flexibility. To encourage flexibility and creativity consistent with the Planned Unit Development concept, departures from the regulations in subsection (4), above, may be permitted, subject to recommendation by the Planning Commission and approval of City Council. For example, such departures may include but are not limited to modifications to: lot dimensional standards; floor area standards; setback requirements; parking, loading, and landscaping requirements; and similar requirements. Such modifications may be permitted only if they will result in a higher quality of development or a better design or layout than would be possible without the modifications. Density standards and the provisions of Section 16.21 Shorelines, right-of-way width requirement of Section 18.02 or the City right- of-way requirement for a public

street may not be modified. A modification of up to 50% of the front yard setback requirement of the zoning district may be modified under this regulation.

- d) Residential Density. The maximum density permitted in the underlying district may be permitted only upon determination that the desired density will not unreasonably affect water and sewer services, storm water drainage, road capacity, traffic, parks and recreation, fire and police services, schools, character of the area, and any planned public and private improvements in the area. The maximum number of dwelling units permitted as part of a PUD proposal shall be determined by submittal of a test plan. Such test plan shall illustrate the maximum number of units which can be accommodated by the given site within the parameters of the underlying zoning district and all other applicable portions of this ordinance or any other state and local laws. The lots or uses depicted on the test plan shall be permitted by right, but not guaranteed if site conditions in the proposed plan require significant deviation consideration, and any use or lot division subject to special approval shall not be included as part of a test plan. Such a plan shall be complete with roads and other required easements. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable within the PUD. The actual lot size of most lots approved in a PUD proposal will likely be substantially less than the minimum requirements of the underlying district in order to meet the open space requirements of this Section. The test plan shall be considered a necessary step to submitting a complete application for a PUD and no further site plans for the subject parcel shall be reviewed by the City.
- e) Permitted Mix of Uses. Where the existing underlying zoning district is residential, nonresidential uses shall be permitted as part of a Planned Unit Development which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant and the nonresidential use will not create a nuisance for abutting property. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed uses: extent to which it serves residents in the PUD compared to others who travel to the site, amount of traffic generated; hours of operation or use; noise, odors, and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use.
- f) Open Space Requirements. Open space shall at least equal that which would be provided under the maximum lot coverage requirements of the underlying district. For example, if maximum lot coverage is 35%, then minimum open space shall be 65%. A subdivision with most of the open space in individual yards will not meet the standards of this Ordinance. At least half of the minimum open space shall be held in common, not as a part of individual lots. Open space shall be in large contiguous units that are easily accessible, usable, and the residents of the development shall have unrestricted access and use of the open space area unless the City Council as recommended by the Planning Commission finds that unrestricted access and use of the open space is unpractical and unreasonable due to unusual circumstances of the property. Small discontinuous areas of open space are contrary to the intent of this section, although it may be necessary to permit up to twenty (20%) of the total open space area in small discontinuous areas on a given parcel in order to achieve quality design and/or function of the balance of the PUD.
- g) Any land without a structure within the boundaries of the site may be included as

required open space, except for submerged lands and land contained in public or private street rights-of-way. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the site plan and never changed to another use. Such conveyance shall:

- (i) Ensure the open space is under single ownership or control, such that there is a single person or entity having proprietary responsibility for the open space. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, master deeds, and/or deed restrictions that indicate that open space will be held as proposed.
 - (ii) Guarantee to the satisfaction of the City Council that all open space portions of the development will be maintained in the manner approved. Documents shall be presented to the satisfaction of the City Attorney that bind all successors and future owners in fee title to maintenance commitments made as a part of the approval of the open space.
 - (iii) Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners within the PUD.
- h) **Frontage and Access.** Planned Unit Developments shall front onto a street with adequate capacity to safely accommodate the traffic of the development without unreasonably congesting the street. Road improvements contiguous to the site of the PUD that would improve traffic safety and reduce congestion may be required as a condition of development approval. Access and egress opening from the development onto a public or private street shall be limited to one (1) per two hundred (200) feet. The nearest edge of any entrance or exit drive shall be located no closer than one hundred (100) feet from any street or road intersection (measured from the nearest intersection right-of-way line). All requirements of Article 18 shall also apply to Planned Unit Developments.
- i) **Utilities.** All utilities serving a Planned Unit Development, including electric, telephone, and cable television lines, shall be placed underground, wherever feasible.
- j) **Privacy for Dwelling Units.** The design of a Planned Unit Development shall provide visual and sound privacy for all dwelling units within and surrounding the development. The relationship of adjacent exterior doors and windows shall be off-set wherever possible. Fences, walks, and landscaping shall be used in the site design to protect the privacy of dwelling units.
- k) **Emergency Access.** The configuration of buildings, driveways, and other improvements shall permit convenient and direct emergency vehicle access and shall be subject to the International Fire Code and Fire Department review.
- l) **Pedestrian and Vehicular Circulation.** A pedestrian circulation system shall be provided that is isolated as completely as possible from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing or planned streets, sidewalks, and bicycle pathways in the vicinity of the site and complement and implement the recommendations of the Tri-Community Plan.

- m) **Maximum Height.** Except as otherwise provided herein, maximum building height shall be consistent with underlying district.
- n) **Minimum Spacing.** Minimum spacing between detached buildings shall not be less than 15 feet unless the Planning Commission or City Council authorizes a lesser amount. In no case shall spacing be less than required under the Building Code.
- o) **Building Length.** The front and rear of a multiple family building shall be considered to be the elevations along the longest dimension of said building. The front of the multiple family building shall be considered to be the direction indicated on the drawings by the designer provided is not inconsistent with floor plan of the individual unit; and the side of a multiple family building shall be considered to be the elevation along the narrowest side of said building. No multiple family building shall exceed one hundred twenty (120) feet in length along any one elevation of the building measured in an unbroken plane between its two furthest points.
- p) **Sensitive Natural Features.** All sensitive natural features such as drainage ways and streams, critical dune areas, wetlands, lands within the 100 year floodplains, and stream or river banks (which by virtue of soil and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by any principal or accessory buildings and structures.
- q) **Buffer Zone Along Streams.** Drainage ways and streams shall be protected by a twenty-five (25) foot natural vegetation strip or public easement measured from the centerline of such drainage ways or streams and measured from the ordinary high water mark for the Kalamazoo River. The standards of Section 16.21 are also applicable and shall not be altered by the regulatory flexibility provision of this Section.
- r) **Buffer Zone Along Property Lines.** Natural vegetation, planted or landscaped buffer areas of twenty-five (25) feet width are required along all exterior boundaries of the property to be developed as a PUD.
- s) **Parking Areas.** The parking area shall be designed so as to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanse of surfaced area. However, landscaped areas in parking lots shall be large enough to support thriving vegetation and are greatly preferred over many small landscape islands.
- t) **Common Property.** Common property in the PUD is an area, parcel or parcels of land, a privately owned road, or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites or condominiums within the PUD. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreational facilities (such as a club house or tennis courts). The applicant shall guarantee to the satisfaction of the City Attorney that all common property portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the approval of the common property. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to

the City and the land use continues as approved.

- u) Easements Across Common Property. When common property exists in private ownership, the owners shall grant easements, over, under and through such property to the City as are required for public purposes.

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ARTICLE 27:
[RESERVED FOR FUTURE USE]

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