

## PLANNED UNIT DEVELOPMENT DISTRICT ORDINANCE

### Section 800

#### Purpose

It is the intent of this Planned Unit Development (PUD) District Ordinance to provide land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof, may be developed with a variety of residential types and non-residential uses, which are planned and developed as a unit.

This Ordinance specifically encourages innovations so that the growing demands for housing may be met by greater variety of type, design, and siting of dwellings while conserving and more efficiently using land. This Ordinance also encourages the conservation and more efficient use of the land for non-residential development.

This Ordinance recognizes that a rigid set of space requirements along with building and use specifications would frustrate the application of this concept. Therefore, where PUD techniques are deemed appropriate, the land may be designated for PUD development as a PUD District. When an area is so designated, the use and dimensional specifications elsewhere in the Zoning Ordinance are replaced by an approval process in which an approved development plan as allowed in 1C 36-7-4-1500, becomes the basis for continuing land use control within the PUD.

### Section 801

#### Objectives

To carry out the intent of this Ordinance, a PUD endeavors to provide:

1. A choice in the types of environment, occupancy tenure, types of housing, types of ownership, and community facilities available to existing and potential residents.
2. Usable open space and recreation areas.
3. Convenience in the location of accessory commercial and service areas.
4. Preservation of natural topographical and geological features with emphasis on:
  - A. prevention of soil erosion,
  - B. conservation of existing surface and subsurface water, and
  - C. preservation of tree cover and other environmentally enhancing features
5. An efficient network of streets and utilities;
6. The development of a pattern in harmony with the objectives of the County's Comprehensive Plan
7. A more efficient utilization of the land than what might be obtained through other development procedures,

### Section 802

#### Delegation and Election

The Starke County Commissioners, pursuant to 1C 36-7-4-1511, hereby delegates to the Plan Commission:

- A. Authority to conduct primary and secondary review of a PUD district ordinance under 1C 36-7-4-1509(c);
- B. Authority to modify permitted uses or development requirement that are specific in a PUD district ordinance.

Except as provided in Section 874 there shall be no appeal to the Starke County Commissioners from any decision of the plan Commission pursuant to (a) or (b) above. Such decisions of the Plan Commission may be reviewed by certiorari procedure in the same manner as that provided

for the appeal of a decision of the Board of Zoning Appeals.

The Starke County Commissioners pursuant to IC-36-7-4-1509(a)(1) hereby elect to establish development requirements expressed in general terms.

## **Section 805**

### **Definitions**

As used in this Ordinance, the following words mean:

1. **Concept Plan** - a plan for an entire parcel of land, drawn to scale, that generally indicates densities, uses, a calculation of what percentage of the entire parcel is devoted to each different use classification, and infrastructure locations including open space - common and public.
2. **Development Plan** - as defined in state statutes as a plan that includes "development requirements that are required for the development of a parcel of land according to standards; and requirements that conform to I.C. 36-7-4-14-1403. Once approved, the Development Plan shall designate the PUD parcel as a PUD District and the zoning map shall be amended to so indicate.
3. **Open Space** - any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment. Such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.
4. **Planned Unit Development (PUD)** - the development of an area of land as a single entity for a number of dwelling units or a number of uses conforming to an approved Development Plan, which may not correspond in lot size, bulk, or type of dwelling, density, lot acreage or require open space to the regulations otherwise require by other Ordinances.
5. **Primary Plat approval** - the conferral of certain rights pursuant to this act prior to final plat approval after specific elements of the Development Plan have been agreed upon by the Plan Commission and the Starke County Commissioners.
6. **Secondary Plat approval** - the official action of the Plan Commission taken after all conditions, engineering plans and other requirement have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion or approval conditioned on the posting of such guarantees within 60 days of Secondary Plat approval.
7. **Site Plan** - a site development plan of the entire PUD which delineates: (1) the existing and proposed topography of the lots, (2) the location of all existing and proposed buildings (other than single family residential), parking spaces, means of ingress and egress, drainage facilities, landscaping, structure and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination.

## **Section 810**

### **General Process for Development of a PUD**

1. Developer files a concept site plan and draft development plan for a PUD with the Planning Office.
2. A Site Review is schedule for the concept and development plans.
3. Both concept and development plans are presented to Plan Commission in a public hearing.
4. The Plan Commission recommends to the Starke County Commissioners both the concept and the draft development plan, and that this parcel be rezoned as a PUD.
5. The Starke County Commissioners vote on rezoning to PUD, the concept and the draft development plans with any Written Commitments attached.
6. The Developer files a primary plat and Final Development Plan with the Planning Office.

Both are scheduled for public hearing before the Plan Commission.

7. The Plan Commission holds a public hearing on primary plat and final Development Plan.

8. The Primary plat and final development plan are approved by Plan Commission.

9. The Secondary Plat is filed with Planning Office.

10. The Secondary Plat is approved by Plan Commission and the plat and Development Plan are recorded by developer.

If a PUD is halted or abandoned for longer than one year, it is considered abandoned, and the developer must ask the Plan Commission for an extension or reaffirm approved plans, or ask for amendments to approved plans.

#### **Section 815**

#### **Uses**

Same as existing ordinances. All uses shall be specified in the final Development Plan.

#### **Section 820 General Requirements**

1. No building shall be closer than 25 feet to any lot line dividing land inside the PUD from land zoned or used as residential outside the PUD.

2. Site and structure regulations for PUDs shall adhere to the following regulations:

A. Plot and lot sizes, dimensions, structure heights, and locations may be freely made and arranged in conformity to the overall density standards recommended by the Plan Commission or stated in this Ordinance. Minimum lot size and frontage, and maximum lot coverage are not specified but the Plan Commission may be guided by standards set in other Zoning Ordinances and by common good practice.

B. A minimum of 30-foot front yard setback shall be provided on any highway or thoroughfare designated as arterial or collector on the Official Thoroughfare Plan.

C. Every residential dwelling unit, commercial, or industrial complex or building shall have access to a public street, court, cul-de-sac, walkway, or other area dedicated to public use or subject to an easement for access. The boundaries and extent of the lot or plot upon which any single unit detached or attached dwelling is located shall be clearly defined and monumented.

D. Right-of-way and pavement widths for internal ways, streets, and alleys shall be determined from sound planning and engineering standards in conformity with the estimated needs of the full development proposed and the traffic to be generated, and shall be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting equipment and other emergency vehicles.

3. Utilities. A developer of a PUD shall furnish public water and sanitary sewage facilities based on agreement with the appropriate municipal officials. The developer shall provide all necessary storm drainage, highway access, paved service streets, parking facilities, fire hydrants, off-street lighting and other public improvements deemed necessary by the County, and shall make reasonable provision for service to the connections with adjoining properties in other ownership,

4. If the PUD contains 10-50 residential units, the PUD shall contain a minimum Open Space of 0.1 acre per residential unit. If the PUD contains more than 50 residential units, the minimum Open Space is 0.01 acre per residential unit. The open space may consist of:

A. an area owned and maintained by a Property Owner's Association; or

B. with the consent of the Starke County Commissioners, an area dedicated to the public for park purposes.

If neither A) nor B) are feasible, the PUD district ordinance may, with the agreement of the developer, be made subject to a written commitment that the developer will pay to the county for park purposes an amount equal to the value of such acreage.

#### **Section 830 Residential PUDs**

If a residential PUD is greater than 25 acres, the site plan may include a parcel of land designated for commercial use that is not more than 10% of the total gross development. The types of commercial uses shall be determined and specified as part of the Development Plan. All change of use after the Development Plan approval shall be reviewed and approved by the Plan Commission.

#### **Section 835 Commercial PUDs**

All Commercial PUDs shall be in compliance with the following regulations:

1. All Commercial PUDs abutting a residential district shall provide a minimum 25-foot planted green belt along the entire width of abutment.
2. All Commercial PUDs shall provide a 10-foot planted greenbelt around the perimeter of the entire development excluding streets, sidewalks, and drives. This greenbelt shall NOT be considered part of the required open space.
3. A maximum of 10% of the total Commercial PUD may be used for residential purposes
4. A maximum of 5% of the total Commercial PUD may be used for industrial purposes if they are deemed compatible with the commercial and/or residential uses. Compatibility shall be determined as part of the PUD Development Plan.

#### **Section 840 Industrial PUDs**

All Industrial PUDs shall be in compliance with the following regulations:

1. A minimum of 20-foot planted greenbelt shall be provided around the entire perimeter excluding drives, streets and sidewalks. This greenbelt shall NOT be part of the required open space.
2. A maximum of 30% of the total area can be used for commercial uses.

#### **Section 850 Variances**

All variances to this ordinance shall be part of the approved Development Plan. Variances shall be determined acceptable if the Plan Commission finds:

1. The general requirements of this ordinance would cause unnecessary hardship because of exceptional and unique topography, access, location, shape, size, drainage or other physical features of the site; or
2. The Plan Commission finds that due to the size, shape, location, permitted use, or uniqueness of the development a variance would constitute good planning, and would not adversely affect the public health, safety, morals or welfare, or the rights of adjacent property owners.

All variances recommended by the Plan Commission based on the above findings, shall be part of the approved Development Plan, and may include conditions imposed by the Plan Commission to substantially secure objectives of this ordinance.

For variances requested after the Secondary Plat and/or Development Plan has been approved see Section 870. All approved variances shall be recorded.

**Section 855**

**Primary Plat Procedures**

All PUD developers shall present a complete concept site plan and draft development plan to the Site Review Committee at least a month before the public hearing before the Plan Commission. The Site Review Committee shall review both and comments shall be recorded and minutes distributed to participants and Plan Commission members. The Plan Commission shall, if all issues are resolved, make a recommendation on the concept plan and draft development plan to the Starke County Commissioners.

At the next Starke County Commissioners meeting, a vote on the concept plan and draft development plan may be requested. When the concept plan and draft development plan are approved by the Starke County Commissioners, then the primary plat can go to public hearing before the Plan Commission.

A proposed primary plat for a PUD shall be filed with the Planning Office as part of a primary plat petition. The petition shall include a list of all property owners within 300 feet of the PUD, and a legal description of the PUD.

At least a month before the Plan Commission public hearing for the primary plat, the PUD developer shall present to the Site Review Committee a primary plat and final Development Plan. Comments shall be recorded and distributed to participants.

The Planning and Zoning Administrator will set a public hearing before the Plan Commission. The Plan Commission shall within 45 days of the public hearing approve or deny the primary plat with Findings of Fact. It is the obligation of the Plan Commission to work with PUD applicants to get the best possible development. If the Plan Commission approves the primary plat, Development Plan, and PUD Findings of Fact, the developer can then present a Secondary Plat. Approval of a primary plat shall not constitute authority to proceed with any construction of any improvements.

If the Plan Commission denies the primary plat or the Development Plan, it must specify reasons in a Finding of Fact statement. The Plan Commission may recommend further study of the site and/or Development Plan and re-submission at a later date. Approval of a primary plat does not obligate the Plan Commission to approve a Secondary Plat.

An approved primary plat is valid for two years. If no Secondary Plat is approved within the two years, the PUD developer must appear before the Plan Commission and request an extension. The Plan Commission may approve or deny the extension.

**Section 860**

**Primary Plat Contents**

All PUD Primary Plats shall contain the following information:

1. Name and address of applicant, developer and owner.
2. Location of PUD parcel per a scaled location map.
3. Existing topography features of the site.
4. Phasing schedule of development.
5. Location of proposed open spaces.
6. Delineation of all uses and area in acres of each use.
7. Total number of residential units and percent of each type of residential uses.
8. Delineation of each commercial and/or industrial use, and total number of such units and percent allocated to these uses.
9. Density percents of every residential use based on gross acres

10. Delineation of areas subject to flooding including data on frequency and extent
11. Delineation of all areas that lie in an aircraft pattern Drainage Plan.
12. Delineation of all easements, right-of-ways, covenants or any other restrictions imposed upon the land or buildings.
13. Delineation of all proposed utilities, pavements, sidewalks, alleys, and parking, including widths.
14. Letter from County Drainage Board approving plan.
15. General description of community services available to the development's residents including schools, fire protection, parks and all public/private utilities.
16. General statement on proposed ownership and maintenance of common open spaces.
16. Proposed construction schedule.
17. Adjacent land uses, topography, and all existing streets and driveways on the perimeter of the PUD.
18. A final Development Plan with all Written Commitments approved by the Starke County Commissioners.

### **Section 865 Secondary Plat Content and Procedures**

A PUD Secondary Plat of all or part of a PUD primary plat can be filed with the Planning Office any time after the Plan Commission approves a primary plat. The Secondary Plat will be placed on a Plan Commission agenda. It does not require a public hearing. The Plan Commission shall have a maximum of 45 days to approve or deny a secondary plat. Approval of a secondary plat does not authorize construction unless the Plan Commission has approved construction plans and any necessary surety. The recording of the approved Secondary Plat shall inform all whom deal with the PUD of the restrictions placed on the land and act as a zoning control device.

1. Content of a PUD Secondary Plat
  - A. Final uses delineated and suitable for recording.
  - B. All subdivided lands delineated as required for all subdivisions.
  - C. Legal description of each subdivided lot including all common open space.
  - D. Address for each lot and common open space.
  - E. Street names that have been approved by the plan commission, postal service and local emergency care providers.
  - F. Location and dimensions of all building lots, permanent common open spaces, easements and right-of-ways.
  - G. Reference to protective covenants, final total acres, building sites by use, and density of each use.
  - H. Other information as required in the Subdivision Ordinance
2. At the time a Secondary Plat is presented, a PUD developer also shall provide:
  - A. Six (6) copies of engineering plans that are drawn to scale and include all easements and buildable plans for all infrastructure prepared, signed and sealed by an Indiana licensed engineer.
  - B. An affidavit guaranteeing the completion of all public infrastructure.
 

The guarantee may be in the form of

    - 1) a developer's bond one and one-half times the amount of the estimated cost of all public improvements yet to be completed; or
    - 2) cash in the amount of one and one-half times the estimated cost of all public improvements yet to be completed; or
    - 3) a lien to be recorded on all the land proposed to be part of the PUD, with partial releases possible after the loan company and the Starke County Commissioners agree on the estimated cost of all public improvements yet to be completed and the loan company agrees to hold in escrow one and one-half times the estimated cost; or

4) a deposit of other collateral equivalent to one and one-half times the estimated uncompleted public improvement cost with the County.

The Plan Commission must approve the construction plans for any public improvements and any necessary surety prior to recording the secondary plat.

**Section 870 Findings of Fact Planned Unit Development**

The Plan Commission will use the following findings form for all PUD primary plat approval or denial.

The Starke County Plan Commission now makes the following findings of fact in support of its approval/denial of the following petition for a Primary Plat of a Planned Unit Development:

Name of petitioner \_\_\_\_\_  
Date \_\_\_\_\_  
Name of project \_\_\_\_\_

This Primary Plat of a Planned Unit Development:

- \_\_\_\_\_ is consistent with the stated purposes of the PUD regulations
- \_\_\_\_\_ meets the requirements and standards of the PUD regulations
- \_\_\_\_\_ deems the proposed departures from the zoning regulations including but not limited to density, dimensions, area, bulk, and use, to be in the public interest
- \_\_\_\_\_ there are adequate provisions in the physical design for public services, control over vehicle traffic, and protection of designated open spaces that further the amenities of light, air, recreational and visual enjoyment.
- \_\_\_\_\_ includes adequate structures and roadways built high enough in areas susceptible of flooding, ponding or erosion.
- \_\_\_\_\_ is compatible and beneficial to the adjacent properties and neighborhood
- \_\_\_\_\_ adds to the physical development, tax base, and economic well-being of the entire community
- \_\_\_\_\_ conforms with recommendations of the Comprehensive Plan
- \_\_\_\_\_ appears to conform with all existing federal, state and local legislation and regulations.

The Plan Commission approved/denied by a vote of \_\_\_\_\_ to \_\_\_\_\_

President of the Plan Commission \_\_\_\_\_

**Section 874. Major Conceptual Changes**

At any time after Starke County Commissioners approval of a PUD and Development Plan pursuant to Section 810(5), no major conceptual change to the PUD or Plan may be made without the approval of both the Plan Commission and the Starke County Commissioners. A major conceptual change is defined as any of the following:

1. the land area covered by the PUD is changed;
2. a use previously not permitted is added;
3. 10 % or more of the land area of the PUD is shifted from one zoning classification to another, net of any compensating changes;
4. within any residential use classification, the density of the use (as measured by living units) is increased by 10% or more;

5. any other specific type of change which the Starke County Commissioners specifies at the time it approves the PUD and Development Plan; or
6. any other change which so modifies the intent or concept of the PUD that the Plan Commission determines requires action by the Starke County Commissioners.

#### **Section 875 Amending a PUD and/or a Development Plan**

All PUDs shall be constructed and developed as delineated on the approved Secondary Plat and Development Plan as recorded. All recorded documents and amendments shall be binding on applicants, their successors, grantees, and assigns, and shall limit and control the use of the PUD land and location of structures. After all plats and documents have been recorded, any major amendments to the PUD will require a public hearing and approval by the Plan Commission. Any minor amendments will require approval by the Plan Commission but may be done so without a public hearing. Both major and minor approved amendments shall be recorded with the Starke County Recorder.

1. Major amendment - any change which alters the concept, uses or intent of the PUD including increase in density, increase in height of buildings, reduction of open space, changes in sequence of development, changes in road/street standards, and/or changes in covenants and/or the approved Development Plan.
2. Minor amendment - any change that does not alter the concept or intent of the PUD or the Development Plan and is not defined as a major amendment.

All changes to the Secondary Plat shall be recorded with the County Recorder as amendments to the Secondary Plat or reflected in the recording of a new corrected Secondary Plat.

In addition to any requirement in this section, any change which fits the definition in Section 874 of a "major conceptual change" shall require the approval of the Starke County Commissioners.

#### **Section 880**

##### **Fees**

Any person, firm, corporation, or agent who shall file a petition for amendment, or application for appeal, variance, special use, planned unit development (PUD) or for other certificate of license required under the terms of this Ordinance, shall be charged a fee in accordance with the County of Starke's established schedule of fees as listed in the Plan Commission Office.

#### **Section 890 Penalties**

Any person, firm, corporation, or agent or any employee or contractor of same who violates, destroys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this Ordinance shall be subject to fines as provided in the Starke County Zoning Ordinance. As offense is deemed committed each day during, or on, which a violation has occurred.

#### **Section 895 General Administration**

In administering its responsibilities under this ordinance, the Plan Commission may promulgate any rules, regulations, or procedures consistent with this Ordinance or state law.