

VILLAGE OF ELM GROVE

13600 Juneau Boulevard
Elm Grove, WI 53122

LEGISLATIVE COMMITTEE
Tuesday, June 9, 2020 * 5:30 PM * Parkview Room

AGENDA

1. Roll Call

2. Review and act on meeting minutes dated 5/12/20.

Documents:

[LC051220md.pdf](#)

3. Review and act on amendments to Chapter §335-22 B-1 Local Business District and §335-24 B-3 Mid-Rise Office District.

Documents:

[B-1 Local Business District \[TPH Edits 052720\].pdf](#)

[B-3 Mid-Rise Office and Professional District \[TPH Edits 052720\].pdf](#)

4. Review and act on amendments to §335-30 Planned Development Overlay District.

Documents:

[DRAFT Planned Development Overlay District \[TPH Edits 052720\].pdf](#)

[ELM GROVE Planned Development Overlay District.pdf](#)

[Shorewood Hills_PUD_10-1-33.pdf](#)

[Village of Shorewood, WI Ecode360.pdf](#)

[Village of Whitefish Bay, WI Planned Development District.pdf](#)

[Wauwatosa_24.05.040___PUD__Planned_Unit_Development_Overlay..pdf](#)

[Wauwatosa_24.16.050___Planned_Unit_Developments..pdf](#)

5. Other Business

6. Adjourn

Any person who has a qualifying disability as defined by the Americans with Disabilities Act who requires that the meeting or materials for the meeting has to be in an accessible location or format must contact the Village Clerk, Mary S. Stredni, at 262-782-6700 or 13600 Juneau Boulevard by 3:00 PM Friday prior to the meeting so that any necessary arrangements can be made to accommodate your

request.

NOTICE: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in the above notice.

**VILLAGE OF ELM GROVE
LEGISLATIVE COMMITTEE MINUTES
Tuesday, May 12, 2020**

Present: President Palmer. Via Zoom Chairman Domaszek, Trustee Haas, Angie Jodie, and Barry Book
David De Angelis Village Manager, Mary S Stredni, Village Clerk, Tom Harrigan
Zoning/Planning Administrator and Assistant to the Village Manager, and Village Attorney Hector de la Mora.

1. Call meeting to order
Chairman Domaszek called the meeting to order at 5:35 p.m.
2. Minutes
Palmer and Jodie moved and seconded to approve the March 11, 2020 minutes. Motion carried.
3. Review and act on amendments to Chapter 335-22 B-1 Local Business District.
President Palmer moved to approve the amended Chapter. Discussion followed.
Trustee Haas had the following changes:
Line 11 Add hyphen between drive and up. Add comma after the word 'window'.
Line 14 Add 'on site' at the beginning of sentence. Delete the words 'or owned'.
Line 16 Add at end of sentence 'serving an adjacent building'
Line 29 Add comma after 'Businesses with drive-up windows.
Second sentence make a new paragraph and after Bluemound Road add 'should be considered'. Delete line 31.
Line 40 Change to 'Utility installations.'
Line 46 de la mora recommended adding 'B-1' before the word district and capitalize the word district.

President Palmer amended his motion to accept with today's amendments and to include changes in the B-3 Chapter. Chairperson Domaszek seconded. Motion carried.

4. Review and discussion of PDO Ordinance
Copies of Wauwatosa, City of Brookfield, Village of Shorewood Hills, Village of Shorewood, and Village of Whitefish Bay were provided for discussion.

President Palmer stated that he preferred the Ordinances that did not have minimum land requirements. Trustee Haas requested that a copy of Wauwatosa's Section 24.16.050 be provided for the next meeting. After discussion, it was determined that staff would take the Village of Shorewood Hills Ordinance and make an outline for the next meeting. Committee members will review the five ordinances provided and note what they liked about each that could be incorporated.

It was determined that the next meeting will be June 9th and the Committee will receive packets by about May 29th in order to give them time to review.

6. No Other Business
7. Adjourn
Jodie and Palmer moved and seconded to adjourn at 6:45 p.m. Motion carried.

Respectfully submitted,
Mary S Stredni, Village Clerk

1 *The following Code does not display images or complicated formatting. Codes should be viewed online. This*
2 *tool is only meant for editing.*

3 § 335-22 **B-1 Business District.**

4 The B-1 Business District is intended to provide for individual or small groups of retail and customer service
5 establishments serving primarily the convenience of the local area. The character, appearance and operation
6 of the business district shall be compatible with the character of the surrounding area.

7 A. Permitted uses. Except for those uses specifically stated as being conditional uses found in section §335-
8 22C, permitted uses include:

- 9 (1) Professional Offices, defined as establishments providing executive, management, administrative, or
10 professional services.
- 11 (2) Community Retail, defined as businesses, excluding those that have a drive-up window, that involve the
12 sale of goods, merchandise or services directly to the consumer in small quantities.

13 B. Permitted accessory uses.

- 14 (1) On site garages for storage of vehicles used in conjunction with the operation of a business or owned or
15 used by tenants residing within quarters located in the same structure as the business.
- 16 (2) Off-street parking facilities and loading areas serving an adjacent building.
- 17 (3) Residential quarters for the owner or proprietor of a business located in the same structure, provided
18 such living accommodations satisfy all applicable health, safety and current building code provisions
19 and such use is accurately reflected in a current plan of operation which identifies the number and
20 location of all residential occupants in such structure in accordance with § 335-22 of the Code of the
21 Village of Elm Grove.

22 C. Conditional uses, provided that an unreasonable amount of traffic is not generated, adequate loading and
23 unloading areas are provided and compatible hours of operation with the surrounding and adjacent
24 neighborhood are included in, and followed as to each respective plan of operation.

25 (1) Automotive and marine sales and service.

26 (2) Building supply stores and general sales of industrial products, such as building materials, electrical
27 supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing
28 supplies, wallpaper and wallpaper supplies, and windows and doors.

29 (3) Businesses with drive-up windows, except for restaurants with drive-up windows for take-away service.
30 Only property which has frontage along, and vehicular ingress and egress access to, Bluemound Road
31 should be considered for such a use.

32

33 (5) Funeral homes.

34 (6) Gasoline service stations and car wash establishments, provided that all pumps and service islands meet
35 the setback and yard requirements.

- 36 (7) Grain processing and storage.
- 37 (8) Physical culture facilities, such as fitness centers, massage parlors, tanning parlors and tattoo parlors and
38 body-piercing establishments as defined by Wis. Admin. Code § SPS 221.
- 39 (9) Power equipment centers, sales, service and storage.
- 40 (10) Utility installations.
- 41 (11) Wireless Communication Facilities as defined by Federal Law 47 CRF §§1.6100 and 1.6002
- 42 (12) Multifamily residential units with a density up to 12 dwelling units per acre.
- 43 (13) Parking lots, driveways, walkways or other hardscape facilities constructed using a permeable surface
44 that allows exceeding the allowable percentage of maximum impervious surface area as defined within
45 this chapter.
- 46 (14) Parking lots and parking structures serving groups of businesses in the B-1 district.

47 D. Site and Building Criteria

- 48 (1) Before determining appropriate setbacks, the Plan Commission shall first make a determination that due
49 consideration has been given to the existing conditions and the potential for redevelopment of adjacent
50 properties when establishing front, side and rear yard setbacks, so as to provide a suitable, streamlined
51 and compatible transition between structures. The following criteria shall be considered by the Plan
52 Commission in determining front, side and rear yard setbacks:
- 53 (2) Lot area and width. Lots shall be a minimum of 7,200 square feet in area and shall be not less than 60
54 feet in width at the front building line.
- 55 (3) Building height. No structure or parts thereof shall exceed 35 feet in building height. No accessory
56 structure shall exceed 15 feet in building height.
- 57 (4) Yards (principal and/or accessory structures).
 - 58 (a) There shall be a minimum building setback of 20 feet from each abutting street right-of-way.
 - 59 (b) There shall be no required side yard; however, when a side yard is provided, there shall be a minimum
60 of 10 feet from the lot line.
 - 61 (c) There shall be a rear yard setback of not less than 25 feet.
- 62 (5) Yards within the Downtown Design Overlay District (principal and/or accessory structures).
 - 63 (a) Subject to the provisions of § **335-22D(5)(b)**, the Plan Commission may approve deviations from any of
64 the yard requirements specified in § **335-22F**.
 - 65 (b) Notwithstanding the provisions of § **335-22D(a)**, **(b)** and **(c)**, an applicant shall propose, and the Plan
66 Commission shall review and may approve, the proposed side, front and rear yard setbacks for
67 structures to be developed or redeveloped within the boundaries of the Downtown Design Overlay
68 District as established by § **335-12G(3)**.

- 69 (i) Whether the building setbacks of new or modified structures are compatible with those of existing or
70 desirable new adjacent structures and are scaled at an appropriate distance based on massing and height
71 characteristics to adjacent or desired new adjacent structures;
- 72 (ii) Whether the proposed new or modified structure fosters a harmonious relationship to desired or new
73 adjacent structures;
- 74 (iii) Whether the proposed location of the new or modified structure is reasonably accessible to streets and
75 public walkways, as contemplated in the Downtown District Site Design Guidelines;
- 76 (iv) Whether the major facade and/or major entrance of the proposed new or modified structure is
77 functionally linked to a feasible pedestrian access as determined by the Plan Commission on a case-by-
78 case basis; and
- 79 (v) Whether the proposed new or modified structure maintains an appropriate distance from any adjacent
80 single- and/or multiple-family residentially zoned properties as determined by the Plan Commission on
81 a case-by-case basis.
- 82 E. Maximum impervious surface: 80% of lot area.
- 83 F. Maximum building footprint area: 60% of lot area.
- 84 G. Plan of operation is required. (Refer to § **335-85**.)

85

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 335-24 B-3 Mid-Rise Office and Professional District.

The B-3 Business District is intended to provide for office, professional and special service uses in a more intense, urban setting.

- A. Permitted uses. Except for those uses specifically stated as being conditional uses found in section §335-24C, permitted uses include:
- (1) Professional Offices, defined as establishments providing executive, management, administrative, or professional services.
 - (2) Community Retail, defined as businesses, excluding those that have a drive-up window, that involve the sale of goods, merchandise or services directly to the consumer in small quantities.
- B. Permitted accessory uses.
- (1) On site garages for storage of vehicles used in conjunction with the operation of a business or owned or used by tenants residing within quarters located in the same structure as the business.
 - (2) Off-street parking facilities and loading areas serving an adjacent building.
- C. Conditional uses, provided that an unreasonable amount of traffic is not generated, adequate loading and unloading areas are provided and compatible hours of operation with the surrounding and adjacent neighborhood are included in, and followed as to each respective plan of operation.
- (1) Convention and conference centers.
 - (2) Restaurants with drive-up windows with take-away service. Only property which has frontage along, and vehicular ingress and egress access to, Bluemound Road may be considered for such a use.
 - (3) Off-street parking facilities and loading areas serving an adjacent building.
 - (4) Wireless Communication Facilities as defined by Federal Law 47 CRF §§1.6100 and 1.6002
 - (5) Multifamily residential units with a density of up to 12 dwelling units per acre.
 - (6) Parking lots, driveways, walkways or other hardscape facilities constructed using a permeable surface that allows exceeding the allowable percentage of maximum impervious surface area as defined within this chapter.
 - (7) Parking lots and parking structures serving groups of businesses in the B-3 district.
- D. Site and Building Criteria
- (1) Before determining appropriate setbacks, the Plan Commission shall first make a determination that due consideration has been given to the existing conditions and the potential for redevelopment of adjacent

properties when establishing front, side and rear yard setbacks, so as to provide a suitable, streamlined and compatible transition between structures. The following criteria shall be considered by the Plan Commission in determining front, side and rear yard setbacks:

- (2) Lot area and width. Lots shall have a minimum area of 40,000 square feet and shall be not less than 100 feet in width at the front building line.
- (3) Building height. No structure or parts thereof shall exceed 65 feet in building height. No accessory structure shall exceed 15 feet in building height.
- (4) Yards (principal and/or accessory structures).
 - (a) There shall be a minimum setback of 50 feet from each abutting street right-of-way for structures not exceeding 35 feet in height.
 - (b) There shall be a side yard setback on each side of all buildings not less than 25 feet in width for structures not exceeding 35 feet in height.
 - (c) There shall be a rear yard setback of not less than 25 feet for structures not exceeding 35 feet in height.
 - (d) The setback requirements in all yards shall be increased one foot for each two feet the structure exceeds 35 feet in height.
- E. Maximum impervious surface: 80% of lot area.
- F. Maximum building footprint area: 60% of lot area.
- G. Plan of operation is required. (Refer to § 335-85.)

DRAFT Village of Elm Grove PUD Ordinance

§ 335-30 Planned Unit Development District PUD

- A. Description and Purpose.
- B. Lot Area, Lot Width, Height, Floor Area Ratio, Yard, Usable Open Space Requirements, Land Use, Signs and Off-Street Parking Requirements.
- C. Criteria For Approval.
 - (1) Character and intensity of land use. A planned unit development district's uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
 - (a) Are compatible with the physical nature of the site or area.
 - (b) Will produce an attractive environment of sustained aesthetic desirability, economic stability and functional compatibility with the Village Comprehensive Plan.
 - (c) Will not adversely affect the anticipated provision for school or other municipal service unless jointly resolved.
 - (d) Will not create a utility, traffic or parking demand incompatible with the existing or proposed facilities to serve it unless jointly resolved.
 - (e) Economic impact. A planned unit development district shall not adversely affect the economic prosperity of the Village or of surrounding properties.
 - (2) A petition for unified and planned development, redevelopment and/or rehabilitation of a site using a PDO District may encompass one or more individual lots or structures, together with allowed compatible uses and related accessory uses or structures (collectively, the "project") may be approved in accordance with this section.
 - (3) Preservation and maintenance of open space. A planned unit development district shall make adequate provision for the improvement and continuing preservation and maintenance of attractive open space.
 - (4) Implementation schedule. A planned unit development district shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at that point.
 - (5) Adherence to Comprehensive Plan. A planned unit development district shall further the Village Comprehensive Plan.
 - (6) The granting of a zoning amendment establishing a PUD District shall be discretionary.
- D. Procedural requirements.
 - (1) Conceptual review.

- (a) All parties contemplating a request for the establishment of a PUD District shall first confer with the Zoning and Planning Administrator prior to appearing before the Plan Commission or filing a rezoning petition and provide sufficient written details and drawings concerning the proposed project as necessary to permit an adequate staff review.
- (b) A staff review may involve other Village departments and professional consultants in the assessment of the feasibility and potential impact of the project on Village infrastructure and resources as well as its conformity with the provisions of the Village's Zoning Code.
- (c) Any party desiring to submit a petition for the establishment of a PUD District shall, following completion of the staff review process, meet with the Village Plan Commission for a conceptual review prior to the submission of the petition.
- (d) The purpose of the conceptual review is solely for the purpose of allowing the exchange of informal observations about a possible project while facilitating the orientation of the members of the Plan Commission and the petitioner(s) of a potential project regarding issues that may have to be addressed in the event that a petition is filed.
- (e) All discussion about the proposed nature and scope of the contemplated project at the conceptual review by Village staff and Plan Commission members shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development or project contemplated or discussed.
- (f) A request for a conceptual review shall be accompanied by the payment of the fee established by Village Board resolution from time to time.
- (2) Petition. Following completion of the conceptual review, all affected real estate owners within the proposed PUD District or their agents shall file a petition with the Village Clerk for rezoning of the property as a PUD District. Such petition shall be accompanied by the review fee established by Village Board resolution from time to time and by all of the following information:
 - (a) A statement that describes the relationship of the proposed PUD District to the Village's Zoning Code, adopted Master Plan (or any adopted component thereof), and describes in detail the uses requested to be included in the proposed PUD District, including the following information:
 - [1] Total area to be included in the PUD District, area of open space, the proposed number of dwelling units, together with the proposed residential unit density and details of supporting calculations in accordance with this § **335-30**, projected population analysis with details that support the assumptions used to calculate same, requirements for and availability of municipal or school district services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - [2] A general summary of the estimated cost of constructing public and private structures and site-related improvements, landscaping and special features.

- [3] Details about the manner in which the owners will participate in the formulation and execution of the development agreement.
- [4] Details concerning the organizational structure of the property owners' or management association proposed to be established for the purpose of providing any necessary continuing private services, implementation of the development agreement or administration of the project.
- [5] Any proposed departures from the standards of development as set forth in the Village zoning ordinances other Village ordinances or applicable state or federal statutes or regulations.
- [6] A realistic development timetable, including all benchmark dates from commencement to completion of physical development of the proposed project.
- (b) A general development plan including:
 - [1] A legal description of the boundaries of all property included in the proposed PUD District and its relationship to surrounding properties, including existing topography on the site with contours at no greater than two-foot intervals as part of an ALTA survey.
 - [2] A detailed site plan for the entire PUD District showing:
 - [a] The type, size, arrangement, including respective use(s) and location of any individual lots, building sites and proposed structures on each individual lot.
 - [b] The location of open space areas and areas reserved or dedicated for private or public uses, including, but not limited to, easements and drainageways.
 - [c] Landscaping, exterior lighting and signage.
 - [d] The location of public and private roads, driveways and parking facilities and the calculations used to justify the number of spaces proposed.
 - [e] The existing and proposed location of public and private sanitary sewer and water supply facilities.
 - [f] The existing and proposed location of all other public and private utilities or other easements.
 - [g] Characteristics of soils related to contemplated specific uses.
 - [3] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 - [4] Architectural plans, elevation and perspective drawings and sketches illustrating the character and design of all proposed structures.
- (3) Referral to Plan Commission.

- (a) The petition for a Planned Unit Development District shall be referred to the Village Plan Commission for its review and preliminary recommendation, including any additional conditions or restrictions that it may deem reasonably necessary or appropriate.
- (b) No final recommendation shall be rendered by the Plan Commission until after the holding of the public hearing provided in § **335-30G(4)**, which shall be attended by as many of the members of the Plan Commission as feasible without necessity that a quorum be achieved.
- (4) Public hearing.
 - (a) The Village Board shall hold a public hearing pursuant to § **335-79** of this chapter.
 - (b) Notice for such hearing shall include reference to the development plans filed in conjunction with the requested PUD District.
- E. Review criteria for petition.
 - (1) The Village Plan Commission, in making its preliminary and final recommendation on the petition, and the Village Board, in making its determination, shall consider whether each of the following criteria are satisfied:
 - (a) Whether the petitioner(s) for the proposed Planned Unit Development District has demonstrated:
 - [1] An intent and ability to begin the physical development of the PUD District within 18 months following the approval of the petition; and
 - [2] That the necessary financial resources to carry out the project in strict conformity with the development agreement have been obtained and committed.
 - (b) Whether the proposed Planned Unit Development District is consistent in all respects with:
 - [1] The purpose of this section and the spirit and intent of this chapter; and
 - [2] The adopted Master Plan or any adopted component thereof.
 - (2) The Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PUD District, shall consider the following criteria:
 - (a) The development will not be contrary to the general welfare and economic prosperity of the community.
 - (b) The proposed site is being provided with adequate drainage facilities for surface and storm waters.
 - (c) The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

- (d) No undue constraint or burden will be imposed on public services and facilities (such as fire, EMT and police protection), street maintenance, maintenance of public areas near the proposed development and/or educational facilities.
- (e) The private roads and driveways on the site of the proposed development are adequate to serve the users of the proposed development.
- (f) Public sanitary sewerage facilities are adequately provided.
- (g) The entire tract or lots to be included in a Planned Unit Development District is subject to the terms and conditions of the development agreement, and the legal description encompasses said PUD District as a single area, shows all of its component lots and has been prepared to be recorded with the Register of Deeds for Waukesha County.
- (h) The proposed project will be adequately served by appropriate off-street parking.
- (i) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious project compatible without unreasonably affecting the property values of the surrounding neighborhood.
- (j) The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create an unreasonable adverse effect upon the general traffic pattern of the surrounding neighborhood.
- (k) Provision has been made for the adequate and continuing operation and maintenance of all aspects of the project.
- (l) The proposed project has, where applicable, been examined with respect to its compatibility with the nonmandatory Downtown Overlay District Site Design Guidelines set forth in § **335-12G**.
- (3) In the case of a proposed PUD District with residential uses, the Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PUD District, shall also consider the following:
 - (a) Such development will provide an attractive residential environment of sustained desirability and economic stability.
 - (b) The impact of the population composition of the project upon the school district's capacity to provide needed educational services.
 - (c) Permanent preservation of open space areas as shown on the approved site plan is ensured by the creation of appropriate easements and recorded deed restrictions.
 - (d) The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which, as a total development entity, is compatible with the surrounding neighborhood.

F. Determination.

- (1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions and restrictions. The approval of a PUD District shall be based upon, and shall include as conditions thereto, approval of the plan of operation for the project and execution by all necessary parties to the development agreement as provided for in § **335-30J**.
- (2) Rezoning to the Planned Unit Development District shall not become effective until a development agreement has been approved by the Village Board, is fully executed by all parties and recorded with the Waukesha County Register of Deeds.

G. Development agreement contents and demonstration of consent.

- (1) The Village Board's review and approval process shall be conditioned upon the execution by the Village Board and the applicant of the development agreement approved by the Village Board in conjunction with its approval under § **335-30I** embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
- (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Village Board and shall include, without limitation by reason of enumeration:
 - (a) Timetables for performance/completion of improvements;
 - (b) Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PUD District;
 - (c) Inspection requirements;
 - (d) Prohibitions on any division/combination of the real estate lots included within the PUD District except as otherwise provided, including an exception for residential condominium units;
 - (e) Provision for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PUD District status upon specified changes of circumstances or upon failure of the project to materialize as agreed to in the development agreement;
 - (f) Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PUD District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities; and
 - (g) Exhibits, drawings or other attachments that depict improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as may be necessary to document to a reasonable degree of specificity the type, character and nature of the improvements to be made within the development area.

- (3) Execution of the development agreement shall constitute evidence of consent and subordination of the entire project area to the terms of the development agreement. The development agreement and all agreements, bylaws, provisions covenants and/or additional deed restrictions required here under shall be recorded, shall run with all of the land included within the approved PUD District and shall fully bind all parties to such agreement and those subsequently taking interest in the property or properties.
 - (4) No approval of a PUD District shall take effect and no rights shall vest in regard to any PUD District petition approved by the Elm Grove Village Board until the development agreement and all of its exhibits have been duly recorded with the Waukesha County Register of Deeds.
- H. Changes and additions. Any subsequent change or addition to the plans or uses of a PUD District or project located therein shall first be submitted for review to the Village of Elm Grove Plan Commission and then to the Village Board utilizing the procedural requirements, including the payment of fees, contained in § **335-30G**.
- I. Subsequent land division.
- (1) Except as otherwise provided in the development agreement, the division of any land or lands within a PUD District for the purpose of change or conveyance of ownership shall not be favored and shall not be permitted unless there is a demonstration of substantial and significant benefit to the public interest arising out of the specific land division.
 - (2) Any land division request shall be accompanied by a detailed proposed certified survey map of the lands to be divided.
 - (3) In addition to complying with any other applicable procedural requirements, any proposal for division of any land within a PUD District shall detail how the various dimensional, density, parking, green space, impervious surface, public infrastructure improvements approved pursuant to the development agreement and other requirements established by the initial granting of the PUD District will be affected or altered. Such proposal shall further demonstrate that all necessary components and obligations associated with the project, including, but not limited to, physical and legal undertakings, will be otherwise be provided so that the proposed division will not negatively impact the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities.
 - (4) The approval of any division of lands within a PUD District is discretionary.

§ 335-30. Planned Development Overlay District. [Amended 5-25-2004]

- A. Intent. The Planned Development Overlay District ("PDO District") is intended to permit development, redevelopment and rehabilitation of property through use of coordinated site planning, diversification of location of structure location and/or types and/or through mixing of compatible allowed uses. The PDO District is intended to achieve high standards of planning and construction and allow for design flexibility while, at the same time, maintaining use requirements set forth in the underlying zoning district.
- B. General provisions.
- (1) A petition for unified and planned development, redevelopment and/or rehabilitation of a site using a PDO District may encompass one or more individual lots or structures, together with allowed compatible uses and related accessory uses or structures (collectively, the "project") may be approved in accordance with this section.
 - (2) The Village may approve a specific petition for rezoning under this section after a public hearing when all regulations and standards, including but not limited to the approval, execution and recording of a development agreement as required in § 335-30J, have been met.
 - (3) All petitions for a zoning amendment establishing a PDO District shall be considered on a case-by-case basis by the Plan Commission, in making its recommendation, and by the Village Board.
 - (4) The granting of a zoning amendment establishing a PDO District shall be discretionary.
- C. Allowed uses.
- (1) Uses allowed in a PDO District are those uses expressly provided for as permitted, conditional and/or accessory uses in the underlying zoning district.
 - (2) More than one type of use may be allowed in a PDO District if the underlying zoning district allows such uses as permitted and/or conditional uses.
- D. Dimensional and stormwater management requirements.

- (1) PDO Districts shall comply at all times with MMSD District Rules and Regulations Chapter 13 relating to stormwater management requirements within the underlying zoning district.
- (2) PDO Districts may, however, deviate from the requirements of the underlying zoning district with respect to maximum building height, yard areas, lot dimensions, setbacks and parking requirements.
- (3) The density of residential units allowed in the PDO District is subject to the provisions of § 335-30F(1).
- (4) PDO Districts authorized under this section shall not contain less than the following applicable minimum acreage for a single or combination of parcels:

Uses	Minimum Acreage
Residential PDO District	5
Commercial PDO District	5
Industrial PDO District	20
Mixed Compatible Use PDO District	20
Mixed Compatible Use within the boundaries identified in § 335-12G(3)	1.5
Residential PDO District adjacent on at least one complete side to a business, office and/or manufacturing zoning district in any municipality	1.5

E. Ownership and transfer requirements.

- (1) Areas zoned as PDO Districts may be under any form of ownership arrangement (including but not limited to the Wisconsin Condominium Ownership Act [Wis. Stat. Ch. 703, as amended from time to time]) provided the total completion of the project as reflected in the development agreement approved by the Village Board of Trustees can be guaranteed.
- (2) No project or portion thereof, except a residential condominium unit therein, shall be transferred before full completion of the obligations within the development agreement without the prior written consent of the Village Board of Trustees.
- (3) All requests for consent to transfer that are approved by the Village Board shall be conditioned upon the deposit of

financial security in whatever form or amount deemed reasonably necessary by the Village Board of Trustees.

- (4) Individually developed lots or improvements thereon may be transferred at any time after execution and recording of the development agreement if allowed by the terms of the development agreement.

F. Residential density calculations.

- (1) Determination of residential density. Only one of three possible levels of residential density shall be allowed in a specific PDO District:
 - (a) The number of residential units allowed as a permitted use in the underlying zoning district; or
 - (b) The number of residential units allowed as a conditional use in the underlying zoning district, which can be less, but not more than, a maximum total density of 12 dwelling units per net acre; or
 - (c) The number of residential units allowed where an enhanced density is allowed in recognition of a project of exceptionally high overall quality as provided by § 335-30F(3).
- (2) Density calculations involving residential use. Except as otherwise allowed by this subsection, residential unit density in all PDO Districts shall be calculated by considering all land encompassed within the proposed project area.
- (3) Enhanced density.
 - (a) If, notwithstanding dimensional differentials, a proposed project uniformly contains exterior and interior materials, design details, workmanship and features of an exceptionally high quality, comparable to the highest quality tier of the Village's then current housing stock or its best commercial office structure, an "enhanced density" for residential units may be recommended by the Plan Commission and may be granted as part of the original PDO District approval process.
 - (b) If granted, the enhanced density level of residential use shall be in lieu of any other possible residential density.
 - (c) An enhanced density shall constitute a discretionary number of residential units that can be less than but not

more than a maximum total of 22 residential units per net acre.

- (d) The following criteria shall be considered by the Village Board of Trustees in determining whether to approve an enhanced density:
 - [1] Whether the project will provide better utilization of the land and better preservation of natural resources than would otherwise be realized if the site were developed either in conformity with the density requirements of the underlying district or as a PDO District without an enhanced density;
 - [2] Whether the project makes adequate provision such that an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use(s) associated with the proposed project;
 - [3] Whether the structures proposed for the project are harmonious with existing surrounding structures and land uses.
 - [4] Whether building materials have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
 - [5] Whether the proposed project will result in the construction or upgrading of specific public infrastructure improvements that will benefit the public without cost to the Village.
 - [6] Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.
- (4) Mixed Compatible Use PDO District. The residential density of a Mixed Compatible Use PDO District project shall take into account the amount of nonresidential use in the project as follows:
 - (a) The average net interior square footage of all residential units ("ARU") upon completion of the project shall be

calculated. This calculation shall not, however, include utility space, garage and areas, such as halls or other common areas, shared by all occupants.

- (b) The total interior square footage of all space devoted to nonresidential ("TNR") uses shall be calculated. This calculation shall not, however, include utility space, garage areas for customer and employee parking and, where different portions of a building are owned or rented by different entities, areas, such as halls and other common areas, that are shared by more than one such entity.
- (c) TRU is the total number of residential units anticipated upon completion of the project.
- (d) Land size is the total size of the project in net acres.
- (e) The effective residential density ("ERD") shall be calculated according to the expression:

$ERD = [TRU + (TNR/ARU)] \div \text{land size}$. The effective residential density shall not be greater than the level of residential density allowed for a project in § 335-30F(1).

G. Procedural requirements.

(1) Conceptual review.

- (a) All parties contemplating a request for the establishment of a PDO District shall first confer with the Zoning and Planning Administrator prior to appearing before the Plan Commission or filing a rezoning petition and provide sufficient written details and drawings concerning the proposed project as necessary to permit an adequate staff review.
- (b) A staff review may involve other Village departments and professional consultants in the assessment of the feasibility and potential impact of the project on Village infrastructure and resources as well as its conformity with the provisions of the Village's Zoning Code.
- (c) Any party desiring to submit a petition for the establishment of a PDO District shall, following completion of the staff review process, meet with the Village Plan Commission for a conceptual review prior to the submission of the petition.

- (d) The purpose of the conceptual review is solely for the purpose of allowing the exchange of informal observations about a possible project while facilitating the orientation of the members of the Plan Commission and the petitioner(s) of a potential project regarding issues that may have to be addressed in the event that a petition is filed.
 - (e) All discussion about the proposed nature and scope of the contemplated project at the conceptual review by Village staff and Plan Commission members shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development or project contemplated or discussed.
 - (f) A request for a conceptual review shall be accompanied by the payment of the fee established by Village Board resolution from time to time.
- (2) Petition. Following completion of the conceptual review, all affected real estate owners within the proposed PDO District or their agents shall file a petition with the Village Clerk for rezoning of the property as a PDO District. Such petition shall be accompanied by the review fee established by Village Board resolution from time to time and by all of the following information:
- (a) A statement that describes the relationship of the proposed PDO District to the Village's Zoning Code, adopted Master Plan (or any adopted component thereof), and describes in detail the uses requested to be included in the proposed PDO District, including the following information:
 - [1] Total area to be included in the PDO District, area of open space, the proposed number of dwelling units, together with the proposed residential unit density and details of supporting calculations in accordance with this § 335-30, projected population analysis with details that support the assumptions used to calculate same, requirements for and availability of municipal or school district services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - [2] A general summary of the estimated cost of constructing public and private structures and site-

related improvements, landscaping and special features.

- [3] Details about the manner in which the owners will participate in the formulation and execution of the development agreement.
- [4] Details concerning the organizational structure of the property owners' or management association proposed to be established for the purpose of providing any necessary continuing private services, implementation of the development agreement or administration of the project.
- [5] Any proposed departures from the standards of development as set forth in the Village zoning ordinances other Village ordinances or applicable state or federal statutes or regulations.
- [6] A realistic development timetable, including all benchmark dates from commencement to completion of physical development of the proposed project.

(b) A general development plan including:

- [1] A legal description of the boundaries of all property included in the proposed PDO District and its relationship to surrounding properties, including existing topography on the site with contours at no greater than two-foot intervals as part of an ALTA survey.
- [2] A detailed site plan for the entire PDO District showing:
 - [a] The type, size, arrangement, including respective use(s) and location of any individual lots, building sites and proposed structures on each individual lot.
 - [b] The location of open space areas and areas reserved or dedicated for private or public uses, including, but not limited to, easements and drainageways.
 - [c] Landscaping, exterior lighting and signage.
 - [d] The location of public and private roads, driveways and parking facilities and the

calculations used to justify the number of spaces proposed.

[e] The existing and proposed location of public and private sanitary sewer and water supply facilities.

[f] The existing and proposed location of all other public and private utilities or other easements.

[g] Characteristics of soils related to contemplated specific uses.

[3] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.

[4] Architectural plans, elevation and perspective drawings and sketches illustrating the character and design of all proposed structures.

(3) Referral to Plan Commission.

(a) The petition for a Planned Development Overlay District shall be referred to the Village Plan Commission for its review and preliminary recommendation, including any additional conditions or restrictions that it may deem reasonably necessary or appropriate.

(b) No final recommendation shall be rendered by the Plan Commission until after the holding of the public hearing provided in § 335-30G(4), which shall be attended by as many of the members of the Plan Commission as feasible without necessity that a quorum be achieved.

(4) Public hearing.

(a) The Village Board shall hold a public hearing pursuant to § 335-79 of this chapter.

(b) Notice for such hearing shall include reference to the development plans filed in conjunction with the requested PDO District.

H. Review criteria for petition.

(1) The Village Plan Commission, in making its preliminary and final recommendation on the petition, and the Village Board, in making its determination, shall consider whether each of the following criteria are satisfied: **[Amended 12-21-2004]**

- (a) Whether the petitioner(s) for the proposed Planned Development Overlay District has demonstrated:
 - [1] An intent and ability to begin the physical development of the PDO District within 18 months following the approval of the petition; and
 - [2] That the necessary financial resources to carry out the project in strict conformity with the development agreement have been obtained and committed.
- (b) Whether the proposed Planned Development Overlay District is consistent in all respects with:
 - [1] The purpose of this section and the spirit and intent of this chapter; and
 - [2] The adopted Master Plan or any adopted component thereof.
- (2) The Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PDO District, shall consider the following criteria:
 - (a) The development will not be contrary to the general welfare and economic prosperity of the community.
 - (b) The proposed site is being provided with adequate drainage facilities for surface and storm waters.
 - (c) The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - (d) No undue constraint or burden will be imposed on public services and facilities (such as fire, EMT and police protection), street maintenance, maintenance of public areas near the proposed development and/or educational facilities.
 - (e) The private roads and driveways on the site of the proposed development are adequate to serve the users of the proposed development.
 - (f) Public sanitary sewerage facilities are adequately provided.

- (g) The entire tract or lots to be included in a Planned Development Overlay District is subject to the terms and conditions of the development agreement, and the legal description encompasses said PDO District as a single area, shows all of its component lots and has been prepared to be recorded with the Register of Deeds for Waukesha County.
 - (h) The proposed project will be adequately served by appropriate off-street parking.
 - (i) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious project compatible without unreasonably affecting the property values of the surrounding neighborhood.
 - (j) The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create an unreasonable adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (k) Provision has been made for the adequate and continuing operation and maintenance of all aspects of the project.
 - (l) The proposed project has, where applicable, been examined with respect to its compatibility with the nonmandatory Downtown Overlay District Site Design Guidelines set forth in § 335-12G.
- (3) In the case of a proposed PDO District with residential uses, the Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PDO District, shall also consider the following:
- (a) Such development will provide an attractive residential environment of sustained desirability and economic stability.
 - (b) The impact of the population composition of the project upon the school district's capacity to provide needed educational services.

- (c) Permanent preservation of open space areas as shown on the approved site plan is ensured by the creation of appropriate easements and recorded deed restrictions.
 - (d) The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which, as a total development entity, is compatible with the surrounding neighborhood.
- (4) In the case of a proposed Industrial PDO District, the Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PDO District, shall also consider the following:
- (a) The operational character, physical plant arrangement and architectural design of structures will be compatible with the latest in industrial development design and performance standards and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - (b) The proposed project will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
 - (c) The proposed project is compatible with the available transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

I. Determination.

- (1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions and restrictions. The approval of a PDO District shall be based upon, and shall include as conditions thereto, approval of the plan of operation for the project and execution by all necessary parties to the development agreement as provided for in § 335-30J.
- (2) Rezoning to the Planned Unit Development Overlay District shall not become effective until a development agreement has been approved by the Village Board, is fully executed by all parties and recorded with the Waukesha County Register of Deeds.

- J. Development agreement contents and demonstration of consent.
- (1) The Village Board's review and approval process shall be conditioned upon the execution by the Village Board and the applicant of the development agreement approved by the Village Board in conjunction with its approval under § 335-30I embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
 - (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Village Board and shall include, without limitation by reason of enumeration:
 - (a) Timetables for performance/completion of improvements;
 - (b) Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PDO District;
 - (c) Inspection requirements;
 - (d) Prohibitions on any division/combination of the real estate lots included within the PDO District except as otherwise provided, including an exception for residential condominium units;
 - (e) Provision for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PDO District status upon specified changes of circumstances or upon failure of the project to materialize as agreed to in the development agreement;
 - (f) Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PDO District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities; and
 - (g) Exhibits, drawings or other attachments that depict improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as may be necessary to document to a reasonable degree of specificity the type, character and nature of the improvements to be made within the development area.

- (3) Execution of the development agreement shall constitute evidence of consent and subordination of the entire project area to the terms of the development agreement. The development agreement and all agreements, bylaws, provisions covenants and/or additional deed restrictions required here under shall be recorded, shall run with all of the land included within the approved PDO District and shall fully bind all parties to such agreement and those subsequently taking interest in the property or properties.
 - (4) No approval of a PDO District shall take effect and no rights shall vest in regard to any PDO District petition approved by the Elm Grove Village Board until the development agreement and all of its exhibits have been duly recorded with the Waukesha County Register of Deeds.
- K. Changes and additions. Any subsequent change or addition to the plans or uses of a PDO District or project located therein shall first be submitted for review to the Village of Elm Grove Plan Commission and then to the Village Board utilizing the procedural requirements, including the payment of fees, contained in § 335-30G.
- L. Subsequent land division.
- (1) Except as otherwise provided in the development agreement, the division of any land or lands within a PDO District for the purpose of change or conveyance of ownership shall not be favored and shall not be permitted unless there is a demonstration of substantial and significant benefit to the public interest arising out of the specific land division.
 - (2) Any land division request shall be accompanied by a detailed proposed certified survey map of the lands to be divided.
 - (3) In addition to complying with any other applicable procedural requirements, any proposal for division of any land within a PDO District shall detail how the various dimensional, density, parking, green space, impervious surface, public infrastructure improvements approved pursuant to the development agreement and other requirements established by the initial granting of the PDO District will be affected or altered. Such proposal shall further demonstrate that all necessary components and obligations associated with the project, including, but not limited to, physical and legal undertakings, will be otherwise be provided so that the proposed division will not negatively impact the

organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities.

- (4) The approval of any division of lands within a PDO District is discretionary.

stage.

- (g) Conditions. The Plan Commission may condition approval of either the concept plan or development plan to provide for the following:
- (1) Landscaping.
 - (2) Exterior materials.
 - (3) Lighting.
 - (4) Fencing and other types of visual screening.
 - (5) Traffic circulation and access.
 - (6) Deed restrictions.
 - (7) Bulk requirements greater than those required in Article D of this Chapter.
 - (8) Parking requirements greater than those required in Article H of this Chapter.
 - (9) Maximum amount of gross floor area.
 - (10) Signage.
 - (11) Drainage.
 - (12) Other requirements deemed necessary by the Plan Commission to fulfill the purpose and intent of this Chapter.

SEC. 10-1-33 PUD PLANNED UNIT DEVELOPMENT DISTRICT.

- (a) Description and Purpose. The planned unit development district is established to provide a voluntary regulatory framework designed to encourage and promote improved environmental and aesthetic design in the Village by allowing for greater design freedom, imagination and flexibility in the development of land while insuring substantial compliance with the basic intent of this Chapter and the Village Comprehensive Plan. To further these goals, the district allows diversification and variation in the bulk and relationship of uses and structures and spaces in developments conceived as comprehensive and cohesive unified plans and projects. The district is further intended to encourage developments consistent with coordinated area site planning.
- (b) Lot Area, Lot Width, Height, Floor Area Ratio, Yard, Usable Open Space Requirements, Land Use, Signs and Off-Street Parking Requirements. In the planned unit development district there shall be no predetermined specific lot area, lot width, height, floor area ratio, yard, usable open space, land use, sign and off-street parking requirements, but such requirements as are made a part of an approved recorded specific development plan agreed upon by the owner and the Village shall be, along with the recorded plan itself, construed to be and enforced as a part of this ordinance.
- (c) Criteria For Approval. As a basis for determining the acceptability of a planned unit development district application, the following criteria shall be applied with specific consideration as to whether or not it is consistent with the spirit and intent of this ordinance and has the potential for producing significant community benefits in terms of

environmental and aesthetic design.

- (1) Character and intensity of land use. A planned unit development district's uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
 - a. Are compatible with the physical nature of the site or area.
 - b. Will produce an attractive environment of sustained aesthetic desirability, economic stability and functional compatibility with the Village Comprehensive Plan.
 - c. Will not adversely affect the anticipated provision for school or other municipal service unless jointly resolved.
 - d. Will not create a utility, traffic or parking demand incompatible with the existing or proposed facilities to serve it unless jointly resolved.
 - e. Economic impact. A planned unit development district shall not adversely affect the economic prosperity of the Village or of surrounding properties.
 - (2) Preservation and maintenance of open space. A planned unit development district shall make adequate provision for the improvement and continuing preservation and maintenance of attractive open space.
 - (3) Implementation schedule. A planned unit development district shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at that point.
 - (4) Adherence to Comprehensive Plan. A planned unit development district shall further the Village Comprehensive Plan.
- (d) Procedure. A petition for a planned unit development district shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by a general development plan. Upon submission of a complete application form, general development plan and payment of the required fee, the Zoning Administrator shall forward the application to the Plan Commission.
- (1) General development plan (GDP). The plan shall include the following:
 - a. A statement describing the general character of the intended development.
 - b. An accurate map of the project area including its relationship to surrounding properties and existing topography and key features.
 - c. A plan of the proposed project showing sufficient detail to make possible the evaluation of the criteria for approval as set forth in Section 10-1-33(e).
 - d. A statement addressing relevant items under Section 10-1-33(c) above.
 - e. A general outline of the intended organizational structure related to

- property owner's association, deed restrictions and private provision of common services.
- f. An economic feasibility study of the proposed use and proof of financial capability.
 - g. When requested, any other information necessary to evaluate the proposal.
- (2) Hearing and Referral.
- a. The general development plan shall follow the rezoning process contained in Section 10-1-125(c). Notice of hearings on general development plans and modifications to such plans shall provide notice according to Section 10-1-125(c)(2)a.
 - b. Approval of the re-zoning and related general development plan shall establish the basic right of use for the area when in conformity with the plan as approved, which shall be recorded as an integral component of the district regulations, but such plan shall be conditioned upon subsequent approval of a specific development plan, and shall not make permissible any of the uses as proposed until a specific development plan is submitted and approved for all or a portion of the general development plan. If the approved general development plan, or notice thereof in a form approved by the Village, is not recorded with the Dane County Register of Deeds within twelve (12) months of the date of approval by the Board, or such other time as the Village may allow in approving the General Development Plan, the approval shall be null and void and a new petition and approval process shall be required to obtain general development plan approval. The Village Board may extend the time allotted to record a General Development Plan. Applicants shall provide proof of recordation to the Zoning Administrator. If a specific development plan for all or part of the general development plan area is not submitted to the Village within twelve (12) months of the date of approval by the Board of the general development plan the general development plan shall be null and void. If the general development plan has been recorded, the applicant may request extension of the time allotted to submit a specific development plan. Such a request shall be considered by the Plan Commission.
- (3) Specific development plan (SDP). The specific development plan shall be submitted to the Plan Commission and shall conform to the requirements of Section 10-1-108 of this Chapter. A specific development plan may be submitted for consideration concurrently with a general development plan, however, such a submittal shall clearly delineate which components are part of the GDP and which are part of the SDP, and shall include the required materials for each submittal.
- (4) Approval of the specific development plan.
- a. Following a review of the specific development plan, the Plan Commission shall recommend to the Board that it be approved as submitted, approved with modifications or disapproved.

- b. Upon receipt of the Plan Commission recommendation, the Board may approve the plan and authorize the development to proceed accordingly, modify the plan or disapprove the plan and send it back with specific objections to the Plan Commission for further negotiation with the developer.
 - c. In the event of approval of the specific development plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the Village offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans, shall be recorded by the developer within twelve (12) months of the date of approval by the Board, or such other time as the Village may allow in approving the Specific Development Plan, in the Dane County Register of Deeds Office. Applicants shall provide proof of recordation to the Zoning Administrator. This shall be accomplished prior to the issuance of any zoning permit. If the specific development plan, as approved, or notice thereof in a form satisfactory to the Village, is not recorded with the Dane County Register of Deeds and a building permit has not been acquired within twelve (12) months of the date of approval by the Board, and the Village Board has not extended the time for recording the specific development plan, the approval shall be null and void, and a new petition and approval process shall be required to obtain specific development plan approval. If the specific development plan has been recorded, the applicant may request extension of the time allotted to acquire a building permit. Such a request shall be considered by the Plan Commission.
- (5) Any subsequent change or addition to the specific development plan shall be submitted to the Zoning Administrator.
- a. Changes to signage that are in compliance with either the Village sign ordinance or the approved specific development plan and that do not result in a net addition of signage beyond the square footages that were approved in the specific development plan, may be approved administratively by the Zoning Administrator.
 - b. The Zoning Administrator shall forward other specific development plan modifications to the Plan Commission for consideration. Minor modifications to the approved SDP shall be considered by the Plan Commission. If, in the judgment of the Plan Commission, the proposed modifications constitute a major change to the SDP, the Plan Commission shall forward the application to the Village Board with a recommendation to approve, approve with conditions, or deny the application.
 - c. The Village Board shall approve, approve with conditions, or deny a major SDP modification.
- (6) The provisions of this section relating to the time for recording General

Development Plans and Specific Development Plans, and relating to changes or additions to specific development plans, shall apply to General Development Plans and Specific Development Plans approved before the effective date of this section.

The Zoning Administrator shall not issue a zoning permit or certificate of occupancy for a planned unit development district unless the application conforms to the approved recorded specific development plan.

SEC. 10-1-34 THROUGH SEC. 10-1-39 RESERVED FOR FUTURE USE.

*Village of Shorewood, WI
Monday, August 5, 2019*

Chapter 535. Zoning

Article IV. Zoning Districts

§ 535-22. Planned Development District.

A. Purpose.

- (1) The purpose of the Planned Development District is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation and conservation in the Village of Shorewood by allowing for greater flexibility, better utilization of topographical and natural site characteristics, and more economical and stable development with variations in siting, land use, and types of dwellings and commercial buildings, thereby promoting the public health, safety and welfare.
- (2) The regulations contained herein are established to permit latitude in the development of a building site, if such development is found not to be harmful, offensive, or otherwise adverse to the environment, property values or character of the neighborhood in which it is to be located and is found to be in accordance with the purpose, spirit and intent of the Village's Comprehensive Plan and of this chapter. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses and structures and open space for developments conceived and implemented as comprehensive and unified projects. Economic considerations, amenities and

compatibility of a Planned Development District are to be assured through adoption of a development plan.

- B. Application to existing uses. This section shall operate as a conditional use and as an alternative to permitted uses and regulations applicable to existing districts and shall be applicable to particular lands only when such lands are zoned under a Planned Development District by action of the Village Board.
- C. Standards and requirements.
- (1) Uses permitted. All uses which are presently permitted in this chapter, and such other uses which, in the opinion of the Plan Commission and the Village Board, are felt to be compatible with the permitted uses referred to herein, and which will effectuate the intended purpose of this chapter, shall be permitted.
 - (2) Lot area. The minimum lot area which may be permitted for application of the Planned Development District shall be 75,000 square feet, except when undertaken in conjunction with a public improvement, in which case 25,000 square feet will be the minimum.
[Amended 10-23-2006 by Ord. No. 1917]
 - (3) Standards. Standards for land area per dwelling unit, land coverage by building, density, front, side and rear yard setback requirements, building height requirements, aesthetic considerations and other requirements deemed necessary by the Village Plan Commission and the Village Board shall be determined by standards established in the applicable existing zoning district most similar in nature and function to the proposed Planned Development District, as determined by the Village Plan Commission and the Village Board. Exceptions to these standards are permissible when the Village Plan Commission and the Village Board find that such exceptions will:
 - (a) Encourage a desirable living environment.

- (b) Not adversely affect property values of adjacent or neighboring lands or the character of the same but rather will be compatible with existing uses and structures found thereon.
 - (c) Not unreasonably impact school facilities or other public facilities or services without adequate provision being made to minimize or relieve such impact.
 - (d) Not create a traffic or parking demand incompatible with existing or proposed facilities to serve it.
 - (e) Be of overall benefit to the community and be in the public interest.
 - (f) Promote the intended purpose of the district and of this chapter.
- (4) Development plan and specifications. A development plan shall contain such information as the Plan Commission and the Village Board shall deem necessary and shall include the following:
- (a) A plat of survey of the development area by a registered land surveyor, with a recordable legal description, all existing utilities, recorded easements and other existing physical features, including but not limited to trees over six inches in diameter.
 - (b) A plot plan showing location of all structures, all other features to be constructed, and all other uses of land, to scale, and with sufficient detail to determine the extent of each use of said structures and land.
 - (c) A topographic map with a contour interval of not more than two feet and sufficient spot elevations to determine the nature of the grade in the proposed development.
 - (d) Building plans in sufficient detail such that the use of each floor and the bulk and aesthetic nature of the

building may be determined.

- (e) A planting plan sufficient in detail to indicate the size, identity, location and nature of all landscaping to be completed in the proposed development.
- (f) A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken and the proposed time limit of the completion of each stage, together with a description of the real property to be included in each stage. If more than one stage is proposed, a plot shall be furnished showing the physical location of each stage.
- (g) A statement of the proposed changes, if any, in locations or levels of streets or alleys and any proposed street or alley closings or vacations.
- (h) A statement related to the adequacy of public facilities and utilities.
- (i) A statement of the proposed method of financing the development in sufficient detail to evidence the probability that the proponents of said plan will be able to finance or arrange to finance the development to insure the timely completion of the project.

D. Procedures.

- (1) Pre-petition conference. Prior to official submittal of a petition for consideration of a Planned Development District, the petitioner (owner, agent or proponent) shall meet with the Village Plan Commission and its technical advisory staff as may be provided by the Village Board for a preliminary discussion as to the scope and nature of the proposed development and to consider alternate solutions to the development of a given area.
- (2) Petition.

- (a) Following the preliminary consultation with the Plan Commission and its technical advisory staff, petition may be made to the Village Board by the owners, their agents, or the proponents of the development plan for approval of a specific project plan under the provisions of these regulations and for a change in zoning to that of Planned Development District. Such petition for approval of a plan and for a change of zoning shall be processed in accordance with the procedures set forth in § 62.23(7)(d), Wis. Stats.
 - (b) Further, said petitioner shall include in the petition filed with the Village evidence satisfactory to the Village Board that the petitioner is or has the power to become the owner of all lands in the proposed planned development area upon compliance with prescribed conditions at a date to be established by the Village Board.
- (3) Referral. Prior to making a final determination, the proposed development plan shall be referred by the Village Board to the Village Plan Commission and the Design Review Board for consideration, advice and recommendation. Unless extended by the Village Board, the recommendation of the Village Plan Commission and the Design Review Board shall be made to the Village Board within 60 days of such referral.
 - (4) Findings and action required.
 - (a) The Village Plan Commission may recommend rezoning of an area into a Planned Development District. The Village Board, after receiving the recommendations of the Village Plan Commission and the Design Review Board and after public hearing, may, by resolution, approve the development plan as presented or modified and, by ordinance, rezone the area included in said plan to a Planned Development District, provided that the Plan Commission and it find that the facts submitted with the application and presented at the hearings establish that:

- [1] The development plan is in accord with the intent and purpose of the Village's Comprehensive Plan and this chapter and is in the public interest.
- [2] The area to be developed is not less than 75,000 square feet, or that it is undertaken in connection with a public improvement, in which case it is not less than 25,000 square feet, and will be developed in an efficient and economically satisfactory manner and will contribute to the improvement of the area in which the development is to be located.
[Amended 10-23-2006 by Ord. No. 1917]
- [3] The various stages, if any, by which the development is proposed to be constructed or undertaken as stated in the development plan are practical, are capable of standing on their own as separate and independent stages should the development not be completed timely, and are in the public interest.
- [4] Public facilities and utilities, existing or proposed, either in conjunction with the plan or separately, are or will be adequate by the time the development plan is completed.
- [5] The proposed changes, if any, to the Village map with regard to street and alley location, levels, closing or vacations are necessary, desirable and in the public interest.
- [6] The development as proposed will create an environment of sustained desirability and stability, will not be detrimental to present and potential surrounding uses, and will not adversely affect neighboring property values or be incompatible with the character of the surrounding area but will have an overall beneficial effect which could not be achieved under other zoning districts.

- [7] Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the development plan.
- [8] The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
- [9] The proposed method of financing the development is feasible and that it is probable that proponents of the plan will be able to finance or arrange to finance the development.
- (b) If, from the facts presented, the Plan Commission or the Village Board is unable to make the necessary findings, the application shall be denied.
- (c) In taking action, the Plan Commission may recommend a denial of the development plan and development schedule as submitted or may recommend approval of said plan and schedule subject to specified amendments.
- (d) The Plan Commission or the Village Board may conditionally approve a plan subject to modification and/or subject to a showing that the method of financing the development plan is feasible and that it is probable that the proponents of the plan will be able to finance or arrange to finance the development plan, such showing to be made at a time thereafter to be determined by the Plan Commission or the Village Board but prior to the giving of final approval hereunder.
- (e) The Village Board may rezone hereunder to take effect upon final approval of a plan filed pursuant to the provisions of this section and/or subject to the issuance of a building permit for the implementation of a plan approved by the Village Board in accordance with the provisions of this section.

- (f) At the time of adopting any ordinance establishing a Planned Development District, the Village Board shall make appropriate arrangements with the applicant as may be permitted under law which will assure the accomplishment and completion at scheduled times of the development plan, in accordance with approvals given.
- (g) If no development has occurred to effectuate a planned development within a time limit, if any, established by the Village Board, or if the development is not completed timely, the Plan Commission shall review the action and determine whether or not the continuation of a given planned development is in the public interest. Upon its determination, it shall make recommendations to the Village Board in accordance therewith.
- (h) Upon receipt of the recommendation of the Plan Commission, in the event that no development has occurred to effectuate a planned development within a time limit established or if the development is not completed timely, the Village Board shall determine what action, if any, shall be taken, including whether or not the area shall be rezoned to its former classification.
- (i) Any changes or additions to the original approved development plan shall require resubmittal and approval by the Plan Commission, and if such changes or additions are substantial in the opinion of the Plan Commission, such plan as modified shall be considered as an original application, and the requirements for the same shall govern prior to final approval of such modifications.

*Village of Whitefish Bay, WI
Monday, December 30, 2019*

Chapter 16. Zoning

Article III. Zoning Districts

§ 16-19. District 9 - Planned Development District.

- A. Purpose. The purpose of the Planned Development District is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation and conservation in the Village of Whitefish Bay by allowing for greater flexibility, better utilization of topographical and natural site characteristics, more economical and stable development and variations in siting, land use and types of dwellings and commercial buildings, thereby promoting the public health, safety, welfare and morals.
- B. Standards and requirements.
- (1) Uses permitted. All uses which are permitted in Chapter **16** of the Village Code are permitted in the Planned Development District subject to the conditions, standards, requirements and procedures imposed under § **16-19** of the Zoning Code.
 - (2) Area. The minimum area for application of the Planned Development District shall be 50,000 square feet, except:
 - (a) When undertaken in extension of an adjoining planned development area in which case there shall be no minimum area requirement;
 - (b) When the extension of a planned development area extends across a public street or alley, the minimum area across the public street or alley shall be 25,000 square feet; or
 - (c) When undertaken in an area adjacent to an area zoned for public building and grounds, the minimum area shall be 25,000 square feet and the area may be separated by a public street.
 - (3) Standards. Standards for land area per dwelling unit, land coverage by building, density, front, side and rear yard setback requirements, building height requirements, parking requirements, aesthetic consideration and other requirements deemed necessary shall be established by the Village Plan Commission and the Village Board when these bodies find that such standards encourage a desirable environment and promote the intended purpose of the district. A PDD submittal shall include the following:
[Amended 10-21-2019 by Ord. No. 1856]
 - (a) A statement which sets forth the relationship of the proposed PDD to the Village's adopted comprehensive plan or any adopted component thereof and the general character of and the uses to be included in the proposed planned development district, including the following information:
 - [1] Total area to be included in the PDD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.

- [2] A general summary of the estimated value of structures and site improvement costs, including landscaping and special features. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
 - [3] Any proposed departures from the standards of development as set forth in the Village zoning regulations, land division ordinance, sign ordinance, other Village regulations or administrative rules or other universal guidelines.
 - [4] The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
- (b) A general development plan that shall contain such information as the Village Plan Commission and the Village Board shall deem necessary, and shall include the following:
- [1] A plat of survey of the development area by a registered land surveyor, with a recordable legal description all of the boundaries of lands included in the proposed PDD, including all existing utilities and recorded easements. Plat of survey shall conform to Chapter 236 of the Wisconsin Statutes.
 - [2] A plot plan, to scale showing location of all existing structures or features to be removed or retained, all structures or features to be constructed, and all other uses of land, and with sufficient detail to determine the extent of each use of said structures, features, or land.
 - [3] A plan showing existing uses and development within 300 feet of the boundaries of the proposed plan development, including, but not limited to anticipated uses of adjoining lands with regards to roads, adjacent/across-the-street driveway openings from the PDD, surface water drainage, and compatibility with existing adjacent land uses.
 - [4] A plan showing:
 - [a] The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities; The existing and proposed location of all private utilities or other easements.
 - [b] The existing and proposed location of public and private roads, driveways and parking facilities.
 - [c] The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
 - [5] A topographic map with a contour interval of not less than two feet, and sufficient spot elevations to determine the nature of the grade in the proposed development.
 - [6] Architectural plans, elevations and perspective drawings and sketches illustrating the exterior design, interior layout, and character of proposed structures. Interior plans in sufficient detail such that the use of each floor can be determined, and the bulk of the building and aesthetic nature of the building may be determined.
 - [7] A landscape plan sufficient in detail to indicate the nature of all landscaping to be done in the proposed development including fences, signs, lighting, plantings, screening for off-street parking spaces and other features relating to the development of the open space. The landscape plan should include characteristics of soils related to contemplated specific uses.

- [8] A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken and the time limit of the completion of each stage, together with a description of the real property to be included in each stage. If more than one stage is proposed, a plot plan shall be furnished, showing the physical location of each stage.
- [9] A statement of the proposed changes, if any, in locations or levels of streets or alleys and any proposed street or alley closings or vacations.
- [10] The location and type (materials) of drives, driveway entrances, walks, parking areas, loading areas, refuse collection areas and screening therefor.

C. Procedures.

- (1) Pre-petition conference. Prior to official submittal of a petition for consideration of a Planned Development District, the petitioner (owner, agent or proponent) shall meet with the Village Plan Commission and its technical advisory staff, as may be provided by the Village Board, for a preliminary discussion as to the scope and nature of the proposed development and to consider alternate solutions to the development of a given area. Failure to secure preliminary approval of the Plan Commission in the pre-petition conference shall preclude further consideration of the proposed development.
- (2) Petition.
 - (a) Upon securing preliminary approval from the Village Plan Commission and its technical advisory staff, the petitioner shall submit to the Village Board the preliminarily approved proposal, requesting a change in zoning to that of Planned Development District. Such petition for approval of a plan and for a change of zoning shall be processed in accordance with the procedures set forth in § 62.23(7)(d), Wis. Stats. A fee of \$100 shall accompany the petition; fee shall be payable to and will be retained by the Village of Whitefish Bay.
 - (b) Petitioner shall submit evidence satisfactory to the Village Board that he is or has the power to be the owner of all lands in the proposed planned development upon compliance with prescribed conditions at a date set by the Village Board.
- (3) Referral. Prior to making a final determination, the proposed development plan shall be referred by the Village Board to the Village Plan Commission, which body in turn shall refer the proposed plan to the Architectural Review Commission for consideration, advice and recommendation. Unless extended by the Village Board, the recommendation of the Village Plan Commission shall be made to the Village Board within 60 days of such referral to the Building Board.
- (4) Findings and action required.
 - (a) The Village Plan Commission may recommend rezoning of an area into the Planned Development District. The Village Board, after receiving the recommendations of the Village Plan Commission and the Architectural Review Commission, and after public hearing, held after public notice as provided by Wisconsin Statutes and in addition thereto, notification to all property owners within 500 feet in all directions from the boundaries of the proposed development project, may by ordinance rezone the area to a Planned Development District, provided that the information submitted with the application and presented at the hearings establishes that:
 - [1] The development as proposed will create an environment of sustained desirability and stability, and will not be detrimental to the present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;

- [2] The development plan is in accord with the intent and purpose of this chapter;
 - [3] The area to be developed complies with the area requirements of Subsection **B(2)** of this chapter and that the area will be developed in an efficient and economically satisfactory manner and will contribute substantially to the improvement of the area in which the development is to be located.
 - [4] The various stages, if any, by which the development is proposed to be constructed or undertaken as stated in the development plan, are practical and in the public interest;
 - [5] Public facilities and utilities, existing or proposed adequate to meet the requirements imposed by the proposed planned development project, either in conjunction with the plan or separately, are or will be completed by the time the related stage of the development plan is completed;
 - [6] The proposed changes, if any, to the Village map with regard to street and alley locations, levels, closing, or vacations are necessary, desirable, and in the public interest;
 - [7] Exceptions from standard Zoning Code requirements are warranted by the design and amenities incorporated in the development plan;
 - [8] The area surrounding said development must have been considered in the planning and its existing uses and probable future use shall be substantially compatible with the proposed development;
 - [9] When the development is an extension to an existing planned development, said development is compatible with or complimentary in appearance and use to the existing planned development.
- (b) In taking action, the Village Plan Commission may recommend a denial of the development plan and development schedule as submitted, or may recommend approval of said plan and schedule subject to specified amendments.
 - (c) At the time of adopting any ordinance establishing a Planned Development District, the Village Board shall make appropriate arrangements with the petitioner, through contract or a performance bond which will insure the accomplishment and completion at scheduled times of the development plan in accordance with approvals given.
 - (d) Any change in the development plan made after adoption of the chapter placing an area in the Planned Development District shall be considered a change in zoning. The owner shall record with the Register of Deeds of Milwaukee County a covenant running with the land restricting the use and development of the area within the boundaries of the development plan to that approved by the Village Board.
 - (e) If no development has occurred to effectuate a planned development within the time limit established by the Village Board, the Village Plan Commission shall review the action and determine whether or not the continuation of a given planned development is in the public interest. Upon its determination, it shall make recommendations to the Village Board in accordance therewith.
 - (f) Upon receipt of the recommendation of the Village Plan Commission and in the event no development has occurred to effectuate a planned development within the time limit established, the Village Board shall determine what action shall be taken, including whether or not the area shall be rezoned to its former classification.

- (g) Upon completion of a planned development area, no changes shall be made without approval of the Plan Commission and the Village Board. (Changes in a completed planned development area shall be considered the same as a change in zoning and shall be made in accordance with the provisions of law.)

24.05.040 - /PUD, Planned Unit Development Overlay.

A. Purpose.

1. General. The /PUD, Planned Unit Development Overlay district is intended to accommodate development that may be difficult if not impossible to carry out under otherwise applicable zoning district standards. Examples of the types of development that may benefit from the PUD overlay district include the following:
 - a. Enhanced Protection of Natural Resource Areas. Developments that offer enhanced protection of natural resources and sensitive environmental features, including streams, water bodies, floodplains, wetlands, steep slopes and woodlands.
 - b. Energy Conservation/Sustainability. Developments that achieve extremely high levels of energy conservation and developments that achieve extremely high levels of sustainability, as evidenced by commitment to attain at least LEED Gold or equivalent ratings by recognized green building organizations.
 - c. Traditional Urban Development. Developments characterized by parcel configurations, street patterns, streetscapes and neighborhood amenities commonly found in urban neighborhoods platted or otherwise created before the 1950s.
 - d. Mixed-use Development. Developments that contain a complementary mix of residential and nonresidential uses.
2. Objectives. Different types of PUDs will promote different planning goals. In general, however, PUDs are intended to promote the following objectives:
 - a. implementation of and consistency with the city's adopted plans and policies;
 - b. flexibility and creativity in responding to changing social, economic and market conditions allowing greater public benefits than could be achieved using conventional zoning and development regulations;
 - c. efficient and economical provision of public facilities and services;
 - d. economic opportunity and environmental and social equity for residents;
 - e. variety in housing types and sizes to accommodate households of all ages, sizes, incomes and lifestyle choices;
 - f. compact, mixed-use development patterns where residential, commercial, civic and open spaces are located in close proximity to one another;
 - g. a coordinated transportation system that includes an inter-connected hierarchy of facilities for pedestrians, bicycles and vehicles;
 - h. compatibility of buildings and other improvements as determined by their arrangement, massing, form, character and landscaping;
 - i. the protection and enhancement of open space amenities and natural resource features such as tree canopy, native vegetation, wetland and stream buffer area and hydric soils in the development design;
 - j. the incorporation of sustainable development features including green infrastructure practices in landscapes and parking area, to maximize the aesthetic and water quality benefits of stormwater management practices; and
 - k. attractive, high-quality landscaping, lighting, architecture and signage, including the use of native landscaping, that reflects the unique character of the development.

- B. Procedure. PUDs must be reviewed and approved in accordance with the procedures of Section 24.16.050. Applications must be signed by all property owners of record.

- C. Zoning Map. Approved PUDs must be identified on the zoning map by appending the map symbol "/PUD" as a suffix to the base zoning district classification, as in "R8/PUD."
- D. Developer's Statement of Intent. Each PUD application must include a written explanation from the applicant describing the community benefits of the proposed development and how the proposed development provides greater benefits to the city than would a development carried out in accordance with otherwise applicable zoning ordinance standards. The statement must also include a comparison of the proposed development with the standards of the base zoning district.
- E. Approval Criteria. A /PUD overlay zoning district may be approved only when the common council determines that the proposed PUD would result in a greater benefit to the city as a whole than would development under conventional zoning district regulations.
- F. Standards Eligible for Modification. Unless otherwise expressly approved by the common council as part of the PUD approval process, PUDs are subject to all applicable standards of this zoning ordinance. The common council is authorized to approve PUDs that deviate from strict compliance with specified standards if they determine that the resulting development satisfies the approval criteria of Section 24.05.040E. PUDs may not deviate from compliance with Title 14 (Fire Prevention) or Title 15 (Buildings and Construction) of the city code of ordinances.
- G. Allowed Uses. The uses to be allowed in a PUD must be identified as part of the PUD approval process along with all applicable conditions or supplemental use regulations that apply to such uses. Regardless of the underlying zoning, the common council may approve a mix of use types within a PUD as a means of accommodating mixed-use developments and developments with a broader range of housing types and housing options than allowed by the underlying zoning district.
- H. Lot Size. Minimum lot area and width standards of the base zoning district may be reduced as part of the PUD approval, provided that lot sizes are adequate to safely accommodate all proposed buildings and site features.
- I. Residential Density. The allowable residential density of the base zoning district may be changed if the common council determines that such a change is warranted to support the public benefit likely to result from the proposed development and that the resulting density can be supported by existing and planned public facilities and services.
- J. Setbacks. The minimum setback standards of the base zoning district may be reduced as part of the PUD approval.
- K. Height. The common council may allow an increase in allowable building heights if it determines that such an increase is warranted to support the public benefit likely to result from the proposed development.
- L. Parking and Loading. Off-street parking and loading requirements may be modified when the common council determines that modified requirements are in keeping with projected parking and loading demand of the proposed development, that other means of meeting access demand will be provided or that the requested modifications will better meet the purpose of the PUD overlay.
- M. Streets. Alternatives to otherwise "standard" street cross-sections and designs may be approved when the common council determines that such alternative designs would better meet the purpose of the PUD overlay, while still providing a safe and efficient traffic circulation system.

Wauwatosa, WI

24.16.050 - Planned Unit Developments.

- A. Planned Unit Development (/PUD) overlay zoning districts are established through the approval of a zoning map amendment in accordance with the zoning map amendment procedures of Section 24.16.030. New PUD zoning map amendments shall be processed concurrently with a preliminary development plan application. Final development plan approval is required after approval of the PUD zoning map amendment and/or preliminary development plan. This section describes the required review and approval procedures for PUD preliminary and final development plans. Modifications to plans in existing /PUD overlay zoning districts follow established PUD plan amendment procedures.
- B. Development Plan Approval Required. Approval of PUD preliminary and final development plans must occur before any building permit is issued and before any development takes place in a /PUD overlay district. Permits may be issued for a development phase if a preliminary development plan has been approved for the entire PUD and a final development plan has been approved for the subject phase.
- C. Preliminary Development Plans. At the option of the applicant, the preliminary development plan may serve also as the preliminary subdivision plat if such intention is declared before the plan commission's hearing and if the plans include all information required for preliminary plats and preliminary development plans.
 1. Preapplication Meetings. Before submitting a PUD application, the applicant must schedule a meeting with the zoning administrator to discuss the proposed plan and the required process. The zoning administrator is responsible for coordinating the involvement of other relevant city departments in the preapplication meeting. The applicant must also hold a neighborhood meeting, with invitations mailed to all property owners within 200 feet of the subject property, alderpersons of the district, and the zoning administrator.
 2. Application Contents. An application for a preliminary development plan must contain all items of information specified in the pre-application meeting including proof of holding a neighborhood meeting prior to application submission.
 3. Application Filing. Complete applications for preliminary development plan approval must be filed with the zoning administrator at the same time that the /PUD zoning map amendment application is filed. Preliminary development plan applications may be filed only by the common council, the plan commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Section 24.16.010C.1).
 4. PUD preliminary development plans must be referred to the plan commission with the /PUD zoning map amendment, if such map amendment is required. Following review of the proposed zoning map amendment and/or preliminary development plan, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed zoning map amendment and/or preliminary development plan be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
 5. Common Council Hearing and Decision.
 - a. Upon receipt of recommendations from the plan commission, the common council must hold a public hearing on the proposed preliminary development plan and/or /PUD zoning map amendment, as required. At the meeting subsequent to the close of the public hearing, the common council may act to approve, approve with modifications (e.g., reducing the land area involved in the rezoning or recommending another less intensive zoning classification) or deny the proposed preliminary development plan and/or /PUD zoning map amendment, as required. If plan commission recommendation has not been forwarded to the common council within 60 days of referral of the proposed preliminary development plan and/or /PUD zoning map amendment to the plan commission, the

common council may hold the required hearing and take action without receipt of the recommendation.

- b. Final action on a /PUD zoning map amendment by the common council requires a simple majority vote of those members present and voting, except when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the amendment approval of the zoning map amendment requires at least a $\frac{3}{4}$ majority vote of those common council members present and voting.
6. Review Criteria. Zoning map amendments are legislative decisions of the common council based on their consideration of the public, health, safety and general welfare.
 7. Lapse of Approval.
 - a. If the subject landowner fails to file an application for PUD final development plan approval within 12 months of the date of PUD preliminary development plan approval, the landowner may request a one-time extension for a period of up to one year. If the landowner does not request such an extension, or if the landowner does not file an application for a PUD final development plan within the 1-year extension period, approval of the PUD preliminary development plan will lapse and be of no further effect.
 - b. For projects to be developed in phases, phase limits must be shown on the preliminary development plan. The common council may impose conditions upon the phasing plan as deemed necessary to ensure orderly development, including requirements for financial guarantees ensuring construction of all required improvements.
- D. Final Development Plans.
1. Application Filing. Final development plan applications must be filed with the zoning administrator before the lapse of a preliminary development plan.
 2. Design Review Board's Recommendation. PUD final development plans must be referred to the design review board. The design review board must review the final development plan and vote to recommend that the final development plan be approved, approved with modifications, or denied. The design review board's recommendation must be transmitted to the common council.
 3. Common Council Decision. Following receipt of recommendations from the design review board, the common council may act to approve, approve with conditions or deny the final development plan. If the design review board has received all the required items of information in the final development plan, but has not forwarded a recommendation to the common council within 60 days of referral of the final development plan to the design review board, the common council may take action without receipt of the recommendation. Final action on a PUD final development plan by the common council requires a simple majority vote of those members present and voting.
 4. Review Criteria. In reviewing PUD final development plans, review and decision-making bodies must determine if the submitted final development complies with the approved preliminary development plan, any conditions imposed on that plan or any applicable regulations of this zoning ordinance.
 5. Lapse of Approval.
 - a. In the event the landowner fails to commence development shown on the final development plan within 12 months after final approval has been granted, then such final approval will lapse and be of no further effect unless the time period is extended by the common council upon written application by the landowner.
 - b. Requests for extensions must be submitted to the zoning administrator before the final development plan approval expires and must be processed in accordance with the procedures for approval of a /PUD preliminary development plan, including applicable filing fees (for time extension), notices and hearings.

- c. In the event of lapse of approval, approved PUD plans have no further effect and the regulations of the underlying zoning govern.
- 6. Notice of Hearing. Notice of the required hearing must be mailed to all owners of property within 200 feet of the subject property at least seven days before the hearing.
 - a. In the event the landowner fails to commence development shown on the final development plan within 12 months after final approval has been granted, then such final approval will lapse and be of no further effect unless the time period is extended by the common council upon written application by the landowner.
 - b. Requests for extensions must be submitted to the zoning administrator before the final development plan approval expires and must be processed in accordance with the procedures for approval of a /PUD preliminary development plan, including applicable filing fees (for time extension), notices and hearings.
 - c. In the event of lapse of approval, approved PUD plans have no further effect and the regulations of the underlying zoning govern.

E. Amendments.

- 1. Amendment Determination. The common council is authorized to determine whether a proposed PUD amendment constitutes a minor or major amendment.
- 2. Major Amendments. Major amendments may be approved only through the procedure required for approval of the PUD. A major amendment is one that constitutes a material change to the approved final development plan that is likely to create more significant adverse impacts on surrounding property owners or the community as a whole, such as:
 - a. increases in the number of dwelling units or the amount of nonresidential floor area;
 - b. reductions in the amount of land area set aside as open space, recreation area or natural resource conservation area; or
 - c. failure to provide public amenities or public benefit features approved as part of the PUD.
- 3. Minor Amendments. The common council is authorized to approve minor PUD amendments through the approval of an amended final development plan, in accordance with the procedures of Section 24.16.050D. See 24.05.010B for additional procedures for zoning overlays.

(Ord. No. O-16-37, §§ I—IV, 11-1-2016; Ord. No. [O-19-05](#), pts. VII—IX, 4-2-2019)