

The City Attorney's Office recommends that City Council discontinue use of the PUD District, by adopting an ordinance that says no additional land will be classified as "PUD" after the date the Z.O. is amended. The edits shown are those minimally necessary to match this recommendation.

Alternatively: if Council elects to continue using the PUD Classification, substantial additional edits will be necessary to the zoning text, to clarify a number of issues that have been resulting in confusion, inconsistent administration, and difficulty in zoning interpretation(s).

ARTICLE III. ZONING DISTRICTS

DIVISION 3. PLANNED UNIT DEVELOPMENT DISTRICT

Sec. 34-XXX. Applicability

(a) No land shall be rezoned to the PUD district after X, 2017.

(b) Nothing in this section shall preclude city council from approving an amendment of a PUD established on or before X, 2017.

Sec. 34-490. - Objectives.

In reviewing an application for approval of a planned unit development (PUD) or an application seeking amendment of an approved PUD, in addition to the general considerations applicable to any rezoning the city council and planning commission shall consider whether the application satisfies the following objectives of a PUD district:

- (1) To encourage developments of equal or higher quality than otherwise required by the strict application of zoning district regulations that would otherwise govern;
- (2) To encourage innovative arrangements of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design.
- (3) To promote a variety of housing types, or, within a development containing only a single housing type, to promote the inclusion of houses of various sizes;
- (4) To encourage the clustering of single-family dwellings for more efficient use of land and preservation of open space;
- (5) To provide for developments designed to function as cohesive, unified projects;
- (6) To ensure that a development will be harmonious with the existing uses and character of adjacent property, and/or consistent with patterns of development noted with respect to such adjacent property;
- (7) To ensure preservation of cultural features, scenic assets and natural features such as trees, streams and topography;
- (8) To provide for coordination of architectural styles internally within the development as well as in relation to adjacent properties along the perimeter of the development; and
- (9) To provide for coordinated linkages among internal buildings and uses, and external connections, at a scale appropriate to the development and adjacent neighborhoods;
- (10) To facilitate access to the development by public transit services or other single-vehicle-alternative services, including, without limitation, public pedestrian systems.

Sec. 34-491. - Permitted uses.

Only those uses shown on an approved PUD development plan shall be permitted uses.

Comment [RL1]: This yellow-highlighted language is the recommendation of the City Attorney's Office. If this recommendation is implemented, only a few other changes are required to this Division—see below.

If this recommended change is NOT implemented, a **substantial** overhaul/ revision of the existing PUD ordinance need to be adopted to avoid current and future legal challenges. Upon request, the City Attorney's office will provide the changes recommended for the PUD Ordinance, if Council and the PC decide they wish to continue using it.

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Sec. 34-492. - Configuration.

A PUD shall contain two (2) or more acres of land. A PUD may be comprised of one (1) or more lots or parcels of land. The lots or parcels proposed for a PUD, and all acreage(s) contained therein, shall either be contiguous, or shall be within close proximity to one another and integrated by means of pedestrian walkways or trails, bicycle paths, and/or streets internal to the development. City council may vary or modify the proximity requirement.

Sec. 34-493. - Required open space.

- (a) As used within this article, the term "open space" shall mean land designated on an approved development plan for a PUD as being reserved for the use, benefit and enjoyment of all residents of the PUD. Such open space may consist of common areas owned and maintained by a developer, or non-profit corporation or property owners' association, and/or any parkland, hiking trails, drainage area, or similar areas dedicated to the public and accepted by the city.
- (b) The following amount of open space shall be required within a PUD: At least fifteen (15) percent of the gross area of all land included within the PUD development site; however, the city council may reduce this requirement in situations where through creative design, or in light of the nature and extent of active recreational facilities provided, it deems the overall objectives of the PUD are best served by such reduction.
- (c) Open space must be useable for recreational purposes, or provide visual, aesthetic or environmental amenities. The following areas shall be excluded from areas counted as open space: buildable lots, buildings and structures, streets, parking areas, and other improvements, other than those of a recreational nature. The following improvements may be counted as part of required open space: playgrounds, ball courts, swimming pools, picnic areas and shelters, parks, walking paths and hiking trails, landscaped terraces, open-air plazas, and similar amenities. Land within a floodway or floodway fringe may be used to satisfy the open space requirement for a PUD; however, not more than thirty-three (33) percent of such land may be counted towards open space requirements.
- (d) Open space shall be provided within each section/ phase of a PUD, in sufficient amounts to serve the expected uses and/or residential population of that phase.
- (e) All property owners within a PUD shall have access to the open space by means of a public street, or a private street or walkway located within an easement reserving property for such access.

Sec. 34-494. - Ownership of land; common areas.

- (a) All property within a PUD shall remain under single entity ownership of a developer, or group of developers, unless and until provision is made which insures the establishment and ongoing maintenance and operation of all open space, recreational facilities, and other common areas within the development. The developer or developers of the PUD shall not lease or sell any property within the PUD unless or until the director of neighborhood development services determines, in writing, that such satisfactory provisions have been made.
- (b) Where a property owners' association is established to own and maintain common areas within a PUD (including all required open space remaining in private ownership) the following requirements shall apply:
 - (1) The property owners' association shall be established and constituted in accordance with the Virginia Property Owners' Association Act, prior to the final approval, recordation and lease or sale of any lot within the PUD;
 - (2) The membership of the property owners' association, and the obligations of such association with respect to the common areas, shall be set forth within a declaration, suitable for recording in the land records of the Circuit Court for the City of Charlottesville, meeting the requirements of the Virginia

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Property Owners' Association Act. The declaration shall detail how the association shall be organized, governed and administered; specific provisions for the establishment, maintenance and operational responsibilities of common areas and the improvements established therein; and the method of assessing individual property owners for their share of costs associated with the common areas.

(c) All common areas and required open space within a PUD shall be preserved for their intended purpose as expressed in the approved development plan. All deeds conveying any interest(s) in property located within the PUD shall contain covenants and restrictions sufficient to ensure that such areas are so preserved. Deed covenants and restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

Secs. 34-495—34-499. - Reserved.

Sec. 34-500. - Dimensional standards, generally.

The dimensional standards (i.e., restrictions of the height, area, location and arrangement of buildings and structures, lot area requirements, and required yards) and landscaping requirements applicable within a PUD district shall consist of: (i) any specific requirements or limitations set forth within this article, (ii) those shown on the approved development plan for the PUD, and (iii) those described within any approved proffers.

Sec. 34-501. - Context.

(a) Within a PUD district:

- (1) With respect to any building located within seventy-five (75) feet of a low-density residential zoning district, which includes R-1, R-1S, and R-2, the height regulations of the residential district shall apply to that building.
- (2) No non-residential use shall be located within seventy-five (75) feet of the perimeter of a PUD unless such use is permitted within the adjacent zoning district at the time of PUD approval.

(b) Except as specifically provided within paragraph (a), above, building height, scale and setbacks of buildings within a PUD shall complement existing development on adjacent property, taking into consideration:

- (1) The nature of existing uses, and of uses anticipated by the city's comprehensive plan, adjacent to and in the neighborhood of the PUD development site. Where a PUD is established on property that shares a block face with improved property, development within the PUD facing such existing improvements shall be harmonious as to height, mass, lot coverage, and setbacks;
- (2) The number, type, and size of the various buildings proposed within the PUD;
- (3) The location of natural, topographical, cultural or other unique features of the site; **and**
- (4) The location of public utilities, public streets, roads, pedestrian systems and bicycle paths, and of associated easements;
- (5) The objectives of the PUD district.

Sec. 34-502. - Landscaping.

(a) A portion of the required open space shall consist of landscaped open areas, in an amount equal to twenty (20) percent of the aggregate gross floor area of commercial uses within the development.

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- (b) In all PUD districts landscaping shall be provided using materials consistent with those required by Article VIII, sections 34-861, et seq.) and the city's list of approved plantings.
- (c) In addition to the requirements of paragraphs (a) and (b), above, landscaping shall be utilized within a PUD:
 - (1) To provide visual separations or buffers, as may be appropriate, between uses and areas different in intensity or character from one another, and between the PUD and adjacent low-density residential districts;
 - (2) To protect and enhance the scenic, recreational, or natural features of a site; priority shall be given to preservation of existing trees having a caliper of eight (8) or more inches and in-place natural buffers;
 - (3) As a means of harmonizing the street frontage along the perimeter of a PUD with the street frontage of adjacent properties;
 - (4) To minimize the impact of noise, heat, light and glare emanating from a building, use or structure upon adjacent buildings, uses or structures.

Sec. 34-503. - Sensitive areas to remain undisturbed.

The following areas shall be left natural and undisturbed, except for street crossings, hiking trails, utilities and erosion control devices:

- (1) Land within a floodway; and
- (2) Wetlands.

Sec. 34-504. - Parking.

Off-street parking for each use within a PUD shall be provided in accordance with the standards set forth within Article IX, sections 34-970, et seq., unless otherwise approved by city council.

Sec. 34-505. - Phased development.

PUDs may be developed in phases, provided the following requirements are met:

- (1) All phases must be shown, and numbered in the expected order of development, on the approved development plan.
- (2) The open space within each recorded phase may constitute fifteen (15) percent of the gross land area within that phase, or all required open space may be provided in the first phase.
- (3) All project data required in section 34-517 for the project as a whole shall be given for each individual phase of development.
- (4) Phasing shall be consistent with the traffic circulation, drainage and utilities plans for the overall PUD.

Secs. 34-506—34-514. - Reserved.

Sec. 34-515. - Application review process.

- (a) Prior to the formal submission of an application seeking approval of a proposed PUD, the developer or his representative shall hold a conference with the director of neighborhood development services

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concerning the proposal, and shall provide the director with unofficial preliminary studies of his development concept and a sketch plan that specifies:

- (1) The general location and amount of land proposed for residential, office, commercial, industrial, open space/recreation and vehicular and pedestrian access and circulation. This information shall be presented in a format that illustrates how the proposal meets the objectives of section 34-490;
 - (2) The numerical range of dwelling units in terms of quantity, and the gross floor area and acreage of each use or land area shown on the sketch plan;
 - (3) A narrative explaining the development plan and if applicable, any proposed deviations or modifications from generally required provisions;
 - (4) Any preliminary proffers.
- (b) Upon confirmation by the director that all materials and information submitted by the applicant satisfy the requirements referenced within paragraph (c), below, the application will be reviewed and acted upon in the manner prescribed within section 34-41.
- (c) Each application shall satisfy the requirements of section 34-41 as well as all of the requirements of this article.

Sec. 34-516. – Application .

- (b) Following the required pre-application review, the developer may submit an application seeking a rezoning approval for a PUD.
- (c) The rezoning application shall consist of the following materials:
- (1) A city rezoning application form;
 - (2) A preliminary site plan for the proposed PUD, containing the components referenced in sec. 34-XXX (preliminary site plans); Council's approval of a PUD Development Plan shall constitute approval of the preliminary site plan;
 - (3) A PUD development plan prepared in accordance with section 34-517, below.
 - (3) A written statement of any proffers proposed in connection with the PUD.
 - (4) In the event the development plan indicates that any critical slopes will be disturbed, the applicant shall submit a request to modify or waive the critical slopes provisions as provided for in section 34-1120.
 - (5) A proposed land disturbance plan to include approximate timing and area of disturbance.
- (c) The completed application shall be processed in accordance with the procedures applicable to rezonings. In the event that subsection (b)(4) applies, the critical slope waiver application shall be considered simultaneously therewith by the planning commission, and if granted, conditioned upon compliance with the approved plan of development.

Sec. 34-517. - PUD development plan— Requirements—Contents.

- (a) Each PUD Development Plan shall contain the following components of the following is a required component of a complete plan of development submitted in connection with an application for approval of a planned unit development:

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~~(1) A survey plat describing and depicting the entire land area to be included within the PUD development site, including identification of present ownership, existing zoning district classification(s) of the parcel(s) to be included within the PUD.~~

Comment [RL2]: Survey Plat would be part of a preliminary site plan, see next paragraph

~~(2) A narrative statement of how the objectives described within section 34-490 are met by the proposed PUD.~~

~~(3) A conceptual development plan, supporting maps, and written or photographic data and analysis which show:~~

~~a. Location and size of existing water and sanitary and storm sewer facilities and easements;~~

Comment [RL3]: These listed requirements are site "layout" type issues that are typically part of a preliminary site plan—recommend simply requiring a preliminary site plan.

~~b. Layout for proposed water and sanitary sewer facilities and storm drainage facilities;~~

~~c. Location of other proposed utilities;~~

~~d. Location of existing and proposed ingress and egress from the development;~~

~~e. Location and size of existing and proposed streets;~~

~~f. Location of existing and proposed pedestrian and bicycle improvements, including connections to nearby schools;~~

BUT: a preliminary site plan should be a bona fide "schematic design" document with conceptual details—NOT a "draft final" plan.

~~g. An inventory, by tax map parcel number and street address, of all adjacent parcels within a five hundred-foot radius of the perimeter of the PUD, indicating the existing zoning district classification of each.~~

~~h. A site inventory of the significant natural, environmental and cultural features of a site, including at a minimum: historic landmarks contained on any state or federal register; vegetation; existing trees of eight inch caliper or greater; wetlands, topography, shown at intervals of five (5) feet or less, critical slopes, and other, similar characteristics or features, and a plan for preserving, protecting, utilizing and/or incorporating such features into the design and function of the proposed PUD.~~

~~(24) A Land Use Map, identifying proposed land use plan. Such plan will identify:~~

~~a. Proposed land uses and their general locations, including without limitation, building and setbacks;~~

~~b. Proposed densities of proposed residential development;~~

~~c. Location and acreage of required open space;~~

~~d. Square footage for non-residential uses;~~

~~e. Maximum height of buildings and structures in area of PUD.~~

~~(5) A general landscape plan which focuses on the general location and type of landscaping to be used within the project as well as the special buffering treatment proposed between project land uses and adjacent zoning districts;~~

Comment [RL4]: See sec. 34-XXX (requirements for preliminary site plans)

~~(46) Delineation of sections, when phased construction is planned. Phasing plan if needed. Each phase shall individually meet the requirements of this section.~~

(9) Additional information as deemed necessary by the director of neighborhood development services in order to facilitate a thorough review of the potential impacts of the proposed PUD that is the subject of the application. If any application fails to demonstrate within their application materials that a proposed PUD meets the minimum requirements specified in section 34-517, above, the application shall be rejected as incomplete.

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Sec. 34-518. Approval

(a) Approval of the rezoning application establishes the maximum density/intensity, height and other dimensional requirements, the general location of each use and locations for streets and utilities shown on the development plan. Together with any approved proffers, the approved development plan shall establish the zoning requirements applicable to the PUD. Approval of a PUD does not relieve the applicant from its obligation to comply with all local, state, and federal laws and regulations. Any change in use, increase in density/intensity, any substantial decrease in the amount of open space, substantial change in the location of permitted uses or streets, and any other substantial change from what is shown on the approved development plan shall be deemed a substantial deviation requiring an amendment of the PUD approval. Factors to be considered in determining whether a change is substantial include, but are not limited to: the extent of the locational change and the expected impact on properties adjacent to the PUD.

(b) Following approval of a PUD development plan, preliminary and final subdivision and site plan approvals shall be required. All such plans shall conform to the approved PUD development plan. No building or structure shall be erected, no building permit(s) issued, and no final subdivision plat(s) recorded, unless:

- (1) A final site plan has been approved;
 - (2) Any required dedications, reservations or required improvements have been made in accordance with the final site plan and PUD phasing schedule; and,
 - (3) Sufficient financial guarantees for completion of required improvements have been received by the city.
- (c) Where phased development has been approved, applications for subdivision and site plan approvals may, at the developer's option, be submitted for each individual phase.

Sec. 34-519. - Amendment.

Following approval of a plan of development for a planned unit development, a landowner may amend the PUD Development Plan and/or any proffered development conditions, in the same manner as for the original zoning amendment, see sec. 34-XXX, or Va. Code sec. 15.2-2302, as may be applicable.

the owner of the development may amend the plan of development only as follows:

(1) The owner of a PUD may submit a written request for a proposed minor change to the approved plan of development to the director of neighborhood development services. The request shall be supported by graphic, statistical and other information necessary in order for the director to evaluate the request. The director may approve the request upon a determination that it involves only a minor deviation from the layout or design contemplated within the approved plan of development. For the purpose of this section the terms "minor change" and "minor deviation" mean and refer to changes of location and design of buildings, structures, streets, parking, recreational facilities, open space, landscaping, utilities, or similar details which do not materially alter the character or concept of the approved plan of development. Should the director

Comment [RL5]: A PUD, and its accompanying PUD Plan and proffers, constitute zoning regulations/ provisions approved by ordinance of city council. An administrative officer cannot modify zoning ordinance provisions; only City Council may do so.

As the design of a development proceeds past the "concept" stage presented during the zoning approval process, the details of the development will be flushed out during the final site plan approval process. Final site plans must be consistent with the prior zoning approvals, and with the approved PSP. But the city's site plan agent has ability to approve certain requests variations or exceptions, but the Director of NDS does not.

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~~determine that the requested change constitutes something more than a minor change or deviation from the approved plan of development, then the owner may seek an amendment pursuant to paragraph (2), below.~~

~~(2) The owner of a planned unit development may apply to city council for permission to amend the approved plan of development, following the same procedure as for the original approval.~~

Secs. 34-520—34-539. - Reserved.