

Section 20. Administration-Amendments and Conditional Use Permits

Subd. 1. Procedure.

A. Request for amendments or conditional use permits, as provided within this ordinance, shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee as out-lined in Section 22. This fee shall not be refunded. Such application shall be accompanied by written and graphic materials fully explaining the proposed change, development, or use. The zoning administrator shall refer said application along with all related information to the City Planning Commission for consideration and a report and recommendation to the City Council.

B. The Planning Commission shall consider the request at its next regular meeting unless the filing date falls within fifteen (15) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The zoning administrator shall refer said application, along with all related information, to the City Planning Commission for consideration and a report and recommendation to the City Council.

C. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.

D. The amendment or conditional use application shall be referred to the City staff for a report and recommendation to be presented to the Commission. A preliminary draft of the City staff's report and recommendations shall be given to the City Planning Commission at least ten (10) days prior to the meeting at which said report and recommendations are to be presented. The final report and recommendations to the City staff are to be entered in and made a part of the permanent written record of the Planning Commission meeting.

E. The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following factors:

1. Relationship to municipal comprehensive plan.
2. The geographical area involved.

3. The character of the surrounding area.
4. The demonstrated need for such use.

F. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, information to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance.

G. Notice of a public hearing shall be published in conformance with the state law and individual notices, if it is a district change or conditional use permit request shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the Becker County assessment records, within seven hundred (700) feet of the parcel included in the request.

(Amended: 02-13-07, Ord. No. 307)

H. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this ordinance.

I. The Planning Commission shall make a finding of fact and recommend such actions and conditions relating to the request as they deem necessary to carry out the intent and purpose of the ordinance. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff.

J. The City Council shall not grant a conditional use permit until they have received a report and recommendation from the Planning Commission and City staff or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.

K. Upon receiving the report and recommendation of the Planning Commission and City staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

L. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall be the option to set and

hold a public hearing if deemed necessary and shall make a recorded finding of fact and shall impose any condition it considers necessary to protect the public health, safety and welfare.

M. If, upon receiving said reports and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus final recommendation of the City Council will differ from that of the Planning Commission, the City Council shall, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

N. Approval of a request shall require a passage by a majority vote except that changing an existing residential to a commercial or industrial zone shall require a two-thirds (2/3) vote of the full City Council. The zoning administrator shall notify the applicant of the Council's decision in writing. (Amended: 07/02/2002 Ord. No. 226)

Subd. 2. Amendments, Rezoning.

A. Initiation. The City Council and Planning Commission may, on their own motion initiate a request, amend the text or the district boundaries (rezoning) of this ordinance. Any person owning real estate or having a Ordinance so as to affect such real estate.

(Amended 8-3-93, Ord. #97)

(Amended 2-13-07, Ord #307)

Subd. 3. Conditional Use Permit.

A. Purpose. The purpose of a conditional use permit is to provide the City of Detroit Lakes with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health, and safety. In making this determination whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the affect upon traffic into and from the premises, or on any adjoining roads, and all such other or further factors as the City shall deem a prerequisite of consideration in

determining the effect of such use on the general welfare, public health, and safety.

B. Lapse of Conditional Use Permit by Non-Use. When-ever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the City Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

Amended: 2-13-07, Ord. No. 307

Subd 4: Planned Unit Developments

A. Purpose. The purpose of the City's Planned Unit Development regulation is to encourage and allow more creative and imaginative design of land developments than is possible under district regulations. Planned Unit Developments are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements.

Uses permitted in a planned unit development may consist of one or a mixture of land uses clearly designated by type on the approved final development plan. Mixed uses may occur among or within buildings as long as the uses are compatible with each other and with planned and existing uses surrounding the Planned Unit Development.

B. Objectives. Through proper planning and design, each Planned Unit Development should include features which further, and are in compliance with, the following objectives:

- 1) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural ecologic conditions.

- 2) To combine and coordinate architectural styles, building forms and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.
- 3) To provide for abundant, accessible, and properly located public open and recreation space, private open and recreation space, schools, and other public and private facilities.
- 4) To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of physical and natural resources.
- 5) To enable land developments to be compatible and congruous with adjacent and nearby land developments.
- 6) To ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction.

C. Conditions for Planned Unit Developments

The Planned Unit Development must meet the following conditions:

- 1) Site and Ownership
The site of the Planned Unit Development must be under single ownership and/or unified control. The site must be a minimum of 2 acres in size.

A site of less than Two (2) acres may qualify if one (1) or more of the following conditions exist:

- (a) The Planned Unit Development is to include two (2) or more principal land uses;
- (b) Natural features of the land are such that development under standard zoning regulations would not be appropriate in order to conserve such features;
- (c) The land is adjacent to or across the street from property which has been developed as a Planned Unit Development and is to be developed in relationship to such prior development; or
- (d) The Planned Unit Development process is desirable to ensure compatibility and careful consideration of the effect of a development on surrounding land uses;

- 2) **Compatibility**
The uses permitted in a Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties.
- 3) **Density**
The net density of a Planned Unit Development shall generally correspond to the net density regulations imposed by the underlying zoning district.
- 4) **Space Between Building**
The minimum horizontal distance between the buildings shall be:
 - a) Ten (10) feet between single family detached buildings, duplexes, triplexes or four-plexes.
 - b) Twenty (20) feet between buildings with five (5) or more dwellings.
 - c) Twenty (20) feet between commercial buildings
 - d) Forty (40) feet between industrial buildings
- 5) **Yards**
The required yards along the periphery of the Planned Unit Development shall be at least 30 feet or the height of the building, whichever is greater. Commercial and industrial buildings shall be fifty (50) feet from any class of residential property.
- 6) **Open Space**
At least 20 percent of the area of the residential portion of a Planned Unit Development shall be usable open space. Open space shall be of a size, shape, location, and usability for its proposed purpose. In the Shoreland District 50 percent of the area for residential PUD's shall be preserved as open space and at least 20% of the total space shall be useable open space.
- 7) **Homeowners Association**
Membership in a homeowner's association shall be mandatory for all residents of the Planned Unit Development. The homeowners association shall own and maintain all common open space and private interior drives.

- 8) **Parking Requirements**
Adequate parking shall be provided and at a minimum, two (2) spaces shall be provided for each unit plus one half (½) space per unit for additional parking.

Additional parking space for guests, customers, the handicapped, recreational vehicles, and other common storage and/or parking uses in Planned Unit Developments may be required by the City Council acting upon the recommendation of the Planning Commission, if warranted by the particular characteristics of the proposed Planned Unit Development.

- 9) **Traffic and Access**
Adequate provision shall be made to provide ingress and egress so designed as to minimize both internal and external traffic hazards and congestions. All land uses shall abut on a public street or have adequate access to a public street by means of a private drive. All streets and drives must tie in effectively with the City's existing street system and with those arterial and collector streets proposed in its Future Lane Use Plan.
- 10) **Sewer and Water**
All PUD's are required to connect to City sewer and water systems.

D. Procedure for Planned Unit Developments

The unique character of a Planned Unit Development requires their administrative processing as conditional use permits. Planned Unit Developments are more complex and require the establishment herein of specific procedures different than those used to process other conditional uses. The procedure, standards, objectives and purpose set forth in this subdivision when in conflict with other provisions of this Ordinance, as they may pertain to Planned Unit Development, and only Planned Unit Developments, shall be superseding.

A THREE-STEP PROCEDURE IS PRESCRIBED FOR PLANNED UNIT DEVELOPMENT.

STEP ONE: APPLICATION

Before the Planning Commission may review a Planned Unit Development, an application shall be submitted to the Community Development Director at least thirty (30) days prior to the Planning Commission meeting. The

application shall be signed by the property owner and the developer and shall include the following items:

E. Submission Requirements:

1) Application

An application for a Planned Unit Development on forms supplied by the Community Development Director listing all shareholders, partners and mailing addresses;

2) Fee

A fee, established by the City Council, that is suitable to cover costs incurred by the City for review of the specific proposal.

3) Notification List

A list of the names and addresses of owners of all property that is situated within 350 feet of the property lines of the subject site. This list shall be current as of the date of submission. People appearing on said list will be sent notice of the public hearing in compliance with statutory requirements.

4) Ownership

A statement of present and proposed ownership of all land within the development.

5) Legal Description

A legal description of the subject site including an address and location location map.

6) Taxes

Proof shall be furnished to indicate that there are no delinquent taxes constituting a lien on the whole or on any part of the property. Such proof may take the form of paid tax bills to the date of submission of the Planned Unit Development Application, a statement from the title insurance company indicating that no liens affect the subject site, or a letter from the County Assessor Treasurer affirming that there are no delinquent taxes of the property.

7) Detailed Plan

A drawing of the Planned Unit Development shall be prepared at a scale of not less than 1" = 50' unless approved at another scale by the City and shall show such designations as proposed streets (public and

private), all buildings and their use, common open space, recreation facilities, parking areas, service areas, and other facilities to indicate the character of the proposed development. The submission may be composed of one (1) or more sheets and drawings, and must include:

- a) Boundary lines and dimensions of the subject site
 - b) Existing and proposed easements – general purpose and widths
 - c) Streets on, adjacent, or proposed for the tract
 - d) Utility extensions of water lines, sanitary sewers, and storm sewers
 - e) Land use designations for the subject site
 - f) Stormwater retention and detention areas
 - g) Residential lots (average lot size and minimum lot size shall be specified)
 - h) General location, purpose and height, in feet or stories, of each building
 - i) Map Data- Name of development, name of site planner, north pint, scale, date of preparation
 - j) Description and quantity of land uses
 - k) Acreage of site
 - l) Number of dwelling units proposed and anticipated population
 - m) Area of industrial, commercial, institutional, recreational, and circulation land uses proposed
 - n) Densities of residential areas
 - o) Bedroom mixes
- 8) Objective
A statement indicating how the proposed Planned Unit Development corresponds to and complies with objectives for Planned Unit Developments as stated in this Section.
- 9) Schedule
Development schedule indicating:
- a) Phases in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the Plat and through supporting graphic material.
 - b) Approximate dates for beginning and completion of each phase

- c) If different land use types are to be included within the Planned Unit Development, the schedule must include the mix of uses anticipated to be built in each phase.

10) Environmental Information

Data identifying existing natural and environmental site conditions, including

- a) Topography
A topographic map, underlying the concept plan, at a minimum of two (2) foot contour intervals.
- b) Flood Plain
Information from the most current source indicating the location of extent of the regulatory flood plain.
- c) Soils
Information from the most current US Department of Agriculture Soil Conservation Service Soils Catalog indicating the location and species of soils. If said information is not available soil borings may be submitted.
- d) Location and extent of existing vegetation
- e) Wetlands Delineation
- f) A depiction of existing surface drainage patterns and proposed retention and detention areas
- g) Shoreland delineations, shore impact delineations and bluff impact zones where appropriate

11. Utilities

Statement indicating that sanitary sewer, storm sewer, and water are directly available to the site.

12. Traffic Information

Information on the existing road network, and vehicle volumes, and the effect the proposed Planned Unit Development will have on the existing road network.

13. Land Use and Zoning Exhibit

A graphic portrayal of existing land use and zoning patterns within a minimum 350 of the proposed site.

14. Building Elevation

Drawings and building elevations showing all building sides adjacent, or the closest sanitary sewer, storm sewer, and water main, as well as documentation of these facilities points of origin.

15. Property Owner's Association Agreement

A property owner's association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Subdivision 7.F. of this Ordinance.

16. Deed Restrictions

Deed restrictions, covenants, permanent easements, or other instruments that:

1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's.

2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Subdivision 7.F. of this Ordinance.

17. Community Benefit Statement

A written statement comparing the relative benefits that will accrue to the community as a result of this site being developed under Planned Unit Development provisions as opposed to conventional zoning. Specific mention should be made of open space, natural features, and architectural design. The "Community Benefit Statement" which accompanies a detailed site plan, provides a developer the opportunity to define with particularity why his proposal merits approval and how it will serve the Community better than a conventional development.

STEP TWO: PUBLIC HEARING

1. PRELIMINARY DEVELOPMENT PLAN APPROVAL

The Community Development Director shall place the Planned Unit Development request on the next Planning Commission agenda for review and recommendation to the City Council. Following the public hearing, the Planning Commission shall submit its recommendation to the City Council for action on the Preliminary Development Plan.

The Planning Commission shall, after the public hearing, set forth the City Council the reasons for its recommendation, and said recommendation shall set forth with particularity what respects the proposal would be in the public interest, including but not limited to finding of fact on the following:

- a) In what respects the proposed plan is consistent with the stated purpose of the Planned Unit Development regulations and with the objectives stated in Section 20, Subdivision 4B.
- b) The extent to which the proposed plan meets the conditions of the Planned Unit Development regulations as set forth in Section 20 Subdivision 4C herein.
- c) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property.

2. APPLICATION FOR THE FINAL PLANNED UNIT DEVELOPMENT APPROVAL

- a) The Developer shall submit an application for final Planned Unit Development approval within 12 months after the Preliminary Planned Unit Development Plan has been approved or the preliminary approval shall be null and void.
- b) The final plan shall be in substantial compliance with the approved preliminary plan and all special conditions prescribed in the Preliminary Development Plan approval have been incorporated into the final plan, and the original development concept has not been altered.

STEP THREE: CITY COUNCIL ACTION

The City Council shall approve or disapprove the proposed Planned Unit Development and state its reasons for approval or denial. The City Council may require such special conditions as it may deem necessary to ensure conformance with the objectives and standards established in this Article.

It is emphasized that no building or construction, excluding public improvements, may take place within the proposed Planned Unit Development, and no permits may be issued, until the Final Plat and accompanying data has been submitted, approved, and recorded.

Prior to granting any Planned Unit Development, the Planning Commission may recommend, and the City Council may stipulate, such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation, best management practices and other elements of the Planned Unit Development as deemed necessary for the protection of the public interest improvement of the development protection of the adjacent area and to secure compliance with the conditions in Section 20.

In some cases, a plat may be required for a Planned unit Development in order to dedicate utility easements, ponds, or park space to the public. If a plat is required, normal platting procedures shall be followed except that a preliminary and final plat may be submitted at the same time.

F. Renovation and Extension

A Planned Unit Development Conditional Use shall become null and void and the subject property shall thereupon be rezoned to its most appropriate district classification, as deemed suitable by the City Council acting upon the recommendation of the Planning Commission, in any case where said Planned Unit Development has:

- 1) Received approval and where the Final Plat of said Planned Unit development has not been submitted for approval within one (1) year after the date of approval of said Preliminary Plat; or
- 2) Received Final Plat approval and where the construction of said Planned Unit Development, as authorized by the issuance of a building permit, has not begun within (1) year after the date of approval of said Final Plat.

H. Official Map Designation

After approval, the planned unit development shall be designated on the City's Official Zoning Map.

(Ordinance No. 266, Adopted 01/04/05)

(Pages 439-440 Reserved for Changes)