

5A

Memorandum

To: Perry City Planning Commission
From: Codey Illum
Date: 03/04/2015
Re: PUD and Cluster Ordinance

We have a subdivision that is going to be on the agenda next month that will be submitted as a PUD. Perry City does not have a current PUD or Cluster Housing Ordinance in place to allow this PUD to move through the subdivision process.

Please review the old Ordinance that was removed in 2005, I have included some information on PUD Ordinance for you to read through.

I feel this is a good time to see if Perry City wants to have this type of development. We have had them in the past, and I feel it is a good fit for Perry City's future.

These were some of the notes of discussion that were taken a few years ago. Some things to think about.

What should be the size of a lot or building envelope? What about the setbacks? With a building envelope, would the setback apply to the envelope or the building. Setbacks are measured from property lines so what would be the line if the property is open space?

Hill Haven is built with 3024 sq. ft. envelopes that each unit must fit into and the rest is space that is not individually owned. We have a problem now with Indian Hills. They were approved as a Cluster Housing Development and now are fencing off the open space. Should the ordinance require lots or building envelopes? If lots are allowed, then fences should be allowed and the area for open space calculation is outside of the lot area. If building envelopes are allowed, then there should be no fences because the rest of the area is open space except for streets, etc. that do not qualify as approved uses for open space.

Right now, Clusters and PUD's are allowed in all zones. What is the purpose of excluding them in R1 and R2? In my understanding, these should be the primary zones where they are allowed. They should be in the higher density zones and what about allowing them in Commercial and mixed use zones?

PLANNED UNIT DEVELOPMENTS AND CLUSTER HOUSING DEVELOPMENTS

INTENT AND PURPOSE.

The intent of allowing Planned Unit Developments and Cluster Housing Developments is to promote the advantages of large scale planning by permitting more flexibility in the design requirements.

DEFINITION.

A Planned Unit Development and/or Cluster Housing Development is:

An integrated design package that demonstrates harmony within the design as well as within the zone and promotes the goals of the Master Plan.

The existing adjacent land uses and the intent of the zone in which the Planned Unit Development or Cluster Housing Development is located must be considered in the design process of Planned Unit Developments and Cluster Housing Developments.

Planned Unit Developments may integrate a variety of land uses in relationship to open space and buffer zones to create a mini community concept. Detailed architectural drawings of all proposed buildings must be part of the design review requirements.

Cluster Housing Developments may integrate a variety of residential concepts in relationship to common open space. The overall density requirements of the zone must be followed in the design review process but lot size may be reduced to create common open space for recreation, agriculture or buffer zones. Detailed architectural drawings will not be required for single family dwellings.

DESIGN REVIEW APPLICATION.

Planned Unit Developments and Cluster Housing Developments are permitted by Design Review and approval of the Planning

Commission in all zones. All policies and regulations of Perry City must be followed.

PLANNED UNIT DEVELOPMENT AND CLUSTER HOUSING DEVELOPMENT PERMIT.

Planned Unit Developments and Cluster Housing Developments are allowed in all zones by permit and approval of the Planning Commission and City Council. Compliance with regulations and specifications of this section will determine approval or disapproval of any Planned Unit Development or Cluster Housing Development.

CONDITIONS, REQUIREMENTS, EVALUATION CRITERIA.

Requirements of Perry City Standards and/or the Zoning Ordinance; density, land use, set back, area, building size and other conditions may be modified by the Planning Commission and City Council if the following design review criteria is met.

AREA. 5 acres minimum - Cluster Development

AREA. 10 acres minimum - Planned Unit Development

MASTER PLAN GOALS. Does the proposed development accent the goals of the Master Plan update and promote a rural atmosphere?

ENVIRONMENTAL PLANNING. Does the design concept adequately incorporate drainage, topography and other physical limitations?

USE RELATIONSHIPS. Do the locations and type of proposed uses create potential conflicts within the proposed development or to adjacent land uses?

BUILDING DESIGN. Do the floor plans, exterior facades, and silhouettes represent functional, visually pleasing concepts?

ADJACENT IMPACT. Does the design represent an effort to minimize impact to adjacent properties?

OPEN SPACE. Does the open space concept utilize the requirements of the landscape policy? Is the open space usable for passive and active recreation? Is it well integrated into the site? Does it promote a visually pleasing atmosphere? Have adequate site amenities been provided?

TRAFFIC IMPACT. Will potential traffic patterns outside the site adversely affect the community? Does the street and parking system represent a safe functional concept? Do the parking areas meet the standards of the off street parking policy?

PEDESTRIAN LINKAGE. Has an adequate system of moving pedestrians safely to and within the site been incorporated?

PUBLIC FACILITIES. Will a substantial increase in density in this area adversely affect any public utility, facility or service?

DESIGN REVIEW AND PROCEDURE

If the proposed development does not meet the requirements of the existing zone the developer may:

Follow the Zone Change Procedure.

For more information obtain Zone Change Procedure information from the City Recorder or City Offices or see the Administrative Section of the 'Perry City Data Base'.

If the proposed development meets the requirements of the existing zone, or a zone change, or a Planned Overlay is allowed, then the design review process will be:

- A. Design Review Application Jurisdiction if no property division or no dedicated roads are planned.
- B. Subdivision Ordinance Jurisdiction if property is subdivided or roads are dedicated to the City.
- C. Common Ground beyond the envelopes cannot be altered to be private or semi private either by recording or by assumption of the Home Owners Association.

Recorded Planned Unit Developments, Cluster Housing Developments or any development with common ground cannot be changed from that status without being submitted to Perry City for a

Subdivision change. This change must meet all zoning and set back requirements and go through development approvals and recording requirements. (

- D. No CC&R's, Restrictive Covenants or Home Owner Associations laws or by-laws can be changed or altered without the review and approval of the Perry City Planning Commission and the Perry City Council.

NOTE: All fees for reviews or consultations with the Perry City Engineer, Attorney or other professionals will be passed on to the developer.

NOTE: Maintenance and use of common open space must be controlled by State Law; Condominium Ownership Act of 1963, Title 57, Chapter 8, Utah Code Annotated, 1953, as amended; and a written procedure and guarantee by the developer is required.

Revision 8/11/05 Added C & D.

2011

15.09.060.1 Maximum Available Units Per Acre

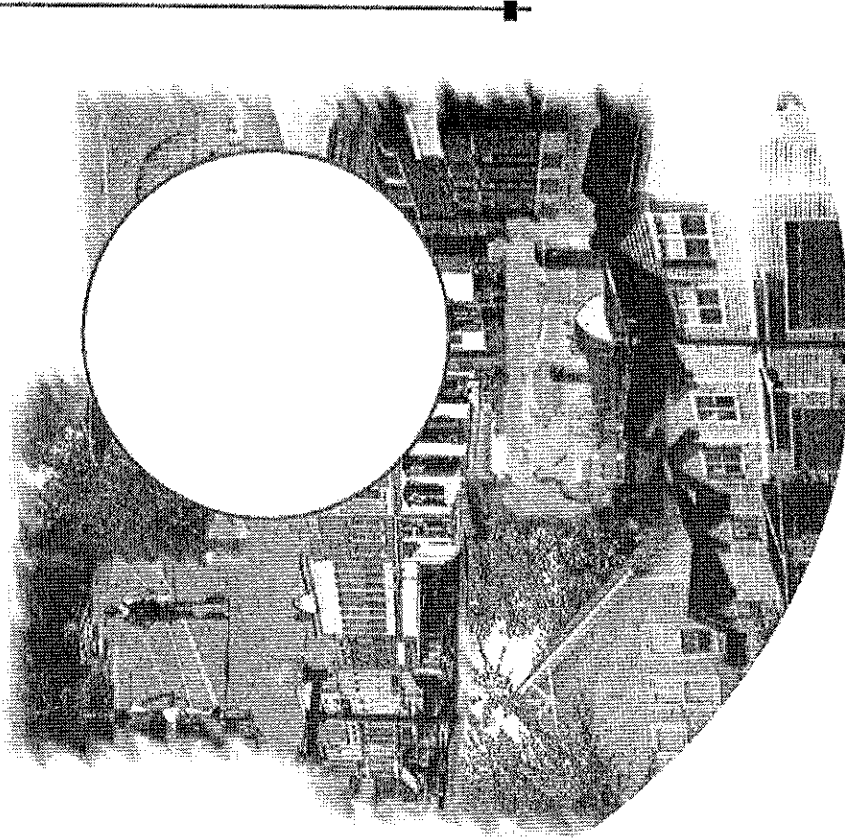
The maximum allowable units per acre that shall be allowable in the PRUD shall be determined by reference to the following table:

1. Average Slope of the Development Site	Maximum Allowable Dwelling Units Per Acre
0-15%:	6
15.1%-30%	4
30.1%+	None allowed

PLANNED UNIT DEVELOPMENT ORDINANCE

From Policy to Reality

Updated
^
Model Ordinances for Sustainable Development



2000
Environmental
Quality Board

2008
Minnesota Pollution
Control Agency

Funded by a Minnesota Pollution Control Agency Sustainable Communities Grant

Primary Author:



CR Planning, Inc.

Brian Ross

Project Coordinator:



CR Planning, Inc.

INTRODUCTION

Planned Unit Developments (PUDs) are a type of development where the local government allows greater flexibility than otherwise allowed under the zoning or subdivision code in return for a coordinated development that provides public benefits not otherwise part of the development process. Frequently, the elements required in PUDs that bring additional public benefit include:

- More open space or natural resource protection than likely under as-of-right zoning;
- A greater mix of housing types and sometimes a mix of residential and commercial land uses designed in a complementary manner that emphasizes synergy;
- More affordable housing or greater housing density but with design standards that ensure greater density maintains community character.

Sustainability and PUDs

The elements described above are relatively commonplace in Minnesota PUD ordinances, and these elements frequently improve the sustainability of buildings, infrastructure, community character, and natural systems. As communities recognize that local government has opportunities and responsibilities for other sustainable development practices, these too can be incorporated into PUD ordinances, including:

- Meeting climate protection or carbon footprint goals
- Building additional capacity into public infrastructure such as stormwater management systems, electric and gas distribution systems, and wastewater systems
- Improving energy efficiency or utilization of local renewable resources
- Creating neighborhoods that are more pedestrian- and transit-oriented
- Encouraging restoration and maintenance of natural systems
- Protecting or enhancing opportunities for local food production

Creating the foundation

The following PUD ordinance provides basic language showing how these sustainability goals can be incorporated into most PUD processes. The key, however, to requiring PUD applicants to address carbon footprints or transit-oriented design is that the policy foundation, in the Comprehensive Plan or other formally adopted policy plan, must be set first. Regulatory requirements must implement adopted policy. Many comprehensive plans do not explicitly address issues such as energy security, transit availability, or climate protection. Other formally

Certifying Sustainability

Some of the sustainability requirements noted in this model may require training or knowledge that local staff do not have. Communities can, in some instances, rely on existing sustainable by standards, some with third party certification processes, rather than requiring staff. Programs that require third-party certification provide a level of assurance to the community that the sustainability requirements are met. Sustainability standards, such as energy efficiency standards that go beyond the minimum standards of the State Energy Code, can similarly be used as a baseline standard. The community can require the PUD applicant to provide third party certification of compliance if the standard does not have a built-in compliance verification process.

Examples of certification programs that might apply to PUD sustainability include LEED certification, particularly the LEED-Neighborhood Design or the proposed LEED-Size Design standard, and the Green Community certification. Both of these processes address multiple components of sustainability, including density thresholds, access to transit, and energy efficiency. Other third-party certification programs or sustainability standards address more narrowly focused sustainability issues, such as building energy efficiency, use of non-synthetic materials, protection of natural resources, and sustainable food production.

adopted policy, such as resolutions supporting the U.S. Mayors' Climate Protection Agreement, can substitute for comprehensive plan language, provided the resolution does not conflict with the comprehensive plan.

Limitations of PUDs

PUDs provide flexibility to developers and opportunities to the community for improving the sustainability of buildings, infrastructure, and natural systems. PUDs can, however, actually diminish sustainability if not written and administered carefully. Responsibility for adhering to the Comprehensive Plan is the community's responsibility (staff, Commission, and elected officials), not the developer's responsibility. The flexibility provided in a PUD should result in development that more closely meets Comprehensive Plan goals than would occur without the negotiated zoning standards; the PUD must not become a way to simply circumvent zoning and subdivision standards. Communities need to have experienced staff who can spend the necessary time negotiating details with the developer to ensure Comprehensive Plan and sustainability goals are met. PUD approval processes are more difficult for staff and Commission members to manage due to these negotiated standards and balancing of flexibility with Comprehensive Plan goals.

- Carefully select which elements of the land use code are open for flexible treatment and the degree of flexibility allowed. The ordinance should not put every zoning standard on the table for negotiation.
- Identify the elements that would benefit the community and set standards for how the development needs to demonstrate that the standards will be met.
- Explicitly tie Comprehensive Plan and sustainability goals to the elements of flexibility and the public benefits expected in the PUD.
- Recognize in fee structures, approval timelines, and in a minimum size requirement that the PUD process requires more staff and Commission involvement than other proposals.
- Require a development agreement that defines the negotiated elements of the development in order to allow staff to ensure that public benefits are realized.

Alternatives to PUDs

Sometimes a community is better off not using PUDs to achieve sustainability goals, but to instead create specific development regulations tailored to a specific sustainability result. For instance, creating a conservation subdivision ordinance is often the best way to achieving natural resource protection goals. Similarly, a Traditional Neighborhood Design ordinance may be more effective than trying to adapt PUD language to meet community character or urban design goals. Examples of these alternatives are found elsewhere in this model.

I. **Scope** - This article applies to planned unit development (PUD) conditional use permits.

II. **Applicability** - The PUD regulations are applicable in all zoning districts where PUDs are a conditional use. The PUD regulations can be used for developments meeting the following criteria:

- A. **Minimum Size** - A tract of land of no less than 10 acres, except as provided elsewhere in this ordinance, that is developed as a unit under single or unified ownership or control
- B. **Minimum Number and Configuration of Buildings, Uses** - A development that includes two or more principal buildings or uses but which may consist of one building containing a combination of principal and supportive uses.
- C. **Consistency with Zoning District** - Uses not otherwise allowed in the zoning district are prohibited within a PUD except as provided in this Article and listed in the development agreement.

III. **Purpose** - The purposes of this article are:

A. **Comprehensive Plan Goals** - To meet the goals of the Comprehensive Plan and preserve the health, safety and welfare of Model Community's citizens by encouraging creative and efficient development of land and infrastructure and preservation of natural features and amenities that would not be permitted under the more restrictive application of zoning requirements. The PUD regulations specifically implement the following goals from the Comprehensive Plan:

1. **Goal** - Provide a variety of housing types and encourage a mixture of housing development to allow people to live in Model Community at any stage in their life.
2. **Goal** - Work with the private sector to meet Model Community's greenhouse gas emission reduction goals.
3. **Goal** - Enhance the local labor supply through provision of higher density housing in close proximity to major Places to Work.
4. **Goal** - Encourage the use of local renewable energy resources, including appropriate applications for wind, solar, and biomass energy.
5. **Goal** - Protect areas of significant natural resources and provide future passive and active recreational opportunities.

Minimum Size Considerations
The minimum size and maximum number of buildings noted here are appropriate for urban locations with a high density development typical for metropolitan areas. Lower density areas, such as centers or communities without centralized water and wastewater systems might set the minimum at 25 acres or 10 buildings. Another alternative for rural communities is to consider not using PUD ordinances but instead relying on a conservation subdivision ordinance to meet sustainability goals.

Comprehensive Plan Goals
Setting the policy foundation for regulatory actions in the community's Comprehensive Plan has clearly helped the public to the regulations as shown in this example. Regulators staff committees and developers understand the intent of the regulation. Regulatory conditions that are not supported by comprehensive plan policies are likely to cause challenges.

6. **Goal** – Promote sustainable building design and management practices in residential, commercial, and industrial buildings to serve the needs of current and future generations.
 7. **Goal** - Promote a walkable, sustainable development pattern that supports alternative forms of transportation (walking, biking and mass transit) while still accommodating the automobile.
- B. Mix of Uses** - To allow for a complementary mixture of uses in an integrated and well planned area within a single zoning district.
- C. Integrate Natural Resources** - To ensure contiguous and well-planned open space and preservation of the site's natural resources and Model Community's natural heritage.
- D. Public Utilities** - To facilitate economic and sustainable investment in streets and public utilities.
- E. Community Assets** - To facilitate sustainable building design and site layout, affordable housing, recreational uses and institutional uses.

IV. Flexibility on Zoning Standards - PUDs may allow subdivision and development design elements not otherwise permitted in some zoning districts if specific conditions are met, provided the design meets the general standards for development in this Article.

Elements for Flexibility
The community should identify what zoning or subdivision provisions are negotiable in the PUD process. PUDs are particularly useful for combining land uses that would not be allowed in the base zoning district. However, the appropriate range of commercial uses that are compatible with residential development is much narrower than all commercial uses. A zoning change also requires careful design to minimize impacts while maximizing connectivity.

- A. Elements for Flexibility** - The subdivision and development design elements that are granted flexibility include:
1. non-standard lot sizes,
 2. higher density of housing units or floor-to-area ratios for commercial uses
 3. reduced rights-of-way and street widths,
 4. broader range of housing types,
 5. land use mix, excluding uses that are not permitted in the zoning district,
 6. zero lot lines and other modifications to minimum or maximum building setbacks.
- B. Conditions for Flexibility** - The conditions required for flexibility on zoning regulation advance Model Community's Comprehensive Plan goals and may include, but are not limited to, the following:
1. **Natural Systems** - Conditions to permanently protect and manage natural systems and resources.

2. **Housing Types and Affordability** - Conditions to ensure an appropriate mix of housing types and affordability.
3. **Pedestrian and Non-motorized Travel** - Conditions to enhance the options for non-motorized travel within Model Community.
4. **Appropriate Mix of Uses** - Conditions to ensure a sustainable and synergistic mix of land uses.
5. **Utility Services and Infrastructure** - Conditions to protect or enhance the quality of service from water, sewer, stormwater, electric, gas, and telecommunications systems.
6. **Green Infrastructure** - Conditions to enhance park and trail access, landscaping and appearance, and optimal stormwater management.
7. **Building Design** - Conditions on building design to protect community, natural, and economic resources.

V. Effect on Existing Zoning - The granting of a PUD permit does not alter in any manner the existing zoning district classification except that building permits shall not be issued unless in conformity pursuant to an approved PUD permit and development agreement. Whenever a question arises concerning the interpretation of this article, it shall be the duty of the planning and zoning commission to ascertain all facts concerning the question and forward all data and a recommendation to the city council for a determination.

VI. Permitted Uses - Planned unit developments include the following permitted uses:

- A. Dwelling units in detached, clustered, semi-detached, or attached multi-storied structures or combinations thereof.
- B. Commercial and industrial uses.
- C. Supporting community facilities.
- D. Open space, parks, trails, and natural systems.
- E. Community-supported agricultural and community gardens.

Defining Flexibility and Community Benefits

The City of Minneapolis is (Spring of 2009) considered a PUD ordinance that creates a list of development flexibility options and a menu of community benefit requirements from which a PUD applicant can select. Each community benefit is assigned points, and the applicant must achieve a sufficient number of points in order to be considered for flexibility in zoning conditions. The menu of benefits includes a variety of sustainability options such as:

- Green building certification (LEED Silver)
- On-site renewable energy (solar wind)
- Geothermal based HVAC systems
- Super energy efficiency
- Bicycle and transit amenities
- Use of car sharing programs for residents/businesses

Permitted Use Considerations

The base zoning district defines the permitted and conditional uses for any green development, but since PUDs may be conditional in a wide variety of districts, the permitted use here is quite broad. If a PUD proposes to include land uses not permitted in the base zoning district, and not specifically allowed as part of the flexibility provisions, the PUD may require a rezoning as well as a PUD conditional use permit.

VII. Conditions for Approval - Planned unit developments are a conditional use or are not permitted, as noted in the land use tables for each zoning district. Model Community may approve the planned unit development only if it finds that the development satisfies all of the following standards:

- A. **Consistent with Comprehensive Plan** - The planned unit development advances Model Community's Comprehensive Plan goals, including both city-wide and the specific area goals.
- B. **Protects and Unifies Natural Systems** - The planned unit development creates an effective and unified treatment of the development and preservation possibilities on the project site. The development plan must provide for the preservation or creation of unique amenities such as natural streams, stream banks and shore buffers, wooded cover, rough terrain, man-made landforms or landscaping and similar areas.
- C. **Integrated with Surrounding Uses** - The planned unit development is planned and developed to harmonize with existing or proposed development in the areas surrounding the project site.
- D. **Ensures Sustainable Design of Buildings** - The applicant ensures that buildings will be designed and constructed according to the sustainable design standards adopted by Model Community.
- E. **Single Ownership** - The tract under consideration is under single ownership or control.
- F. **Minimum Size and Exceptions** - The tract is at least ten acres in size. Smaller tracts may be allowed if the applicant can show that the proposed PUD meets the standards and purposes of the comprehensive plan and preserves the health, safety and welfare of the citizens of the community and that all of the following conditions exist:

- 1. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.
- 2. The proposal would benefit the area surrounding the project to greater degree than development allowed within the underlying zoning district(s), including improved pedestrian or transit access to jobs, goods, and services.
- 3. The proposal would provide mixed land use and/or site design flexibilities while enhancing site or building aesthetics to achieve an overall, workable higher quality of development than would otherwise occur in the underlying zoning district.

Sustainable Design Standards
References made to Model Community's sustainable design standards. The design standards are in this case a separate document identifying the preferred sustainable building design elements, such as high energy efficiency, sustainable energy generation, minimization of construction waste, green roof standards, accessibility standards, or other elements of sustainable building design. Alternatively, the standards could reference an existing set of standards such as LEED, Energy Star, Minnesota Green Code, or Minnesota GreenStar. The design standards document should identify how compliance can be accomplished and any process is for failing to meet certification such as forfeiture of a home or denial of an occupancy permit.

Infrastructure Considerations
Communities with certain services should limit PUDs in areas served by such services. Certain infrastructure standards are a more appropriate tool for meeting natural resource preservation goals in areas without urban services.

- 4. The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site than would otherwise occur in the underlying zoning district.
- G. **Urban Service Area** - The proposed tract is within Model Community's urban service area.

VIII. Density - In any planned unit development the maximum number of dwelling units allowed shall not exceed the density identified for that site in the Comprehensive Plan, except as noted below.

- A. **Exceptions for Comprehensive Plan Goals** - Density increases consistent with the comprehensive plan may be allowed if the proposed development can be demonstrated to better meet Comprehensive Plan affordable housing, natural resource protection, sustainable building design, or transit-oriented development goals.
- B. **Optional Waiver of Lot Size, Setback Requirements** - Zoning and subdivision standards relating to lot size and setback may be modified when a PUD is submitted for approval. Increased residential densities and open space areas may be subject to additional design conditions that are necessary, in the judgement of Model Community, to meet Comprehensive Plan goals.
- C. **Minimum Lot Size for Single Family Homes** - Up to 40 percent of single-family detached home lots in a single development may use reduced lot areas. Lot areas must have a minimum of 3,500 contiguous square feet of buildable area. Buildable area must be unencumbered by setbacks, public easements and other physical constraints (such as topography or similar features).

IX. Coordination with Subdivision Regulations

- A. **Simultaneous Subdivision Review** - Subdivision review must be carried out simultaneously with the review of a planned unit development.
- B. **Preliminary and Final Plats** - The plans required under this article must be submitted in a form that will satisfy Model Community's subdivision requirements for the preliminary and final plats.
- C. **Flexibility of Subdivision Standards** - Flexibility of design standards and criteria of Model Community's subdivision ordinance may be allowed as part of a planned unit development.

Density Considerations

Each community will have distinct community character goals, so regard to how much flexibility to provide a PUD in terms of lot size and lot dimensions. The ordinance requires increases in proper density (over base zoning allowances) except for specific circumstances. Such a strategy in a high growth community acts as an incentive for developers to go beyond base requirements for providing open space, natural resource protection, or sustainable building design. In contrast, the limitation on increased density in subdivision C to 40% of residential lots is a recognition that density can offer sustainability advantages if a commitment is made with the Comprehensive Plan, and that base zoning was designed to set the character of the project site.

The dimensions noted in this ordinance (3,500 sq ft of buildable area, subdivision C) are consistent with Metropolitan Council density targets proposed by the Climate Change Advisory Group (6 units/lot). Where base zoning already calls for 6 or more units per acre, the building area would need to be reduced. An alternative for metropolitan area communities is to set maximum unit maximum lot size, rather than density, to encourage the development of more than minimum LEED ND standard of seven (7) units per acre or the LEED ND credit for compact development (10 units/acre). In both cases, single-family density could be offset by attached or multi-family homes or by allowing accessory dwelling units, which would meet the housing diversity goals of this PUD ordinance.

X. Pre-application Meeting - Prior to the submission of any plan to the planning and zoning commission, the applicant shall meet with the zoning administrator to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a conditional use permit, preliminary plat, and a general development plan. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the city staff to facilitate the review of the general development plan and preliminary plat.

XI. General Development Plan - The following information and documents shall be filed as part of the general development plan.

- A. **Application** - An applicant shall make an application for a planned unit development permit following the procedural steps as set forth in the conditional use regulations.
- B. **Additional Requirements for PUD** - In addition to the criteria and standards set forth under the conditional use chapter, the following additional findings shall be made before the approval of the development plan:
 - 1. **Comprehensive Plan** - The proposed PUD is in conformance with the comprehensive plan.
 - 2. **Neighboring Impacts** - The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
 - 3. **Phasing** - Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
 - 4. **Sustainable Design** - The PUD will result in the construction of sustainable buildings and make use of renewable energy sources.
 - 5. **Public Facility Capacity** - The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities, which serve or are proposed, to serve the area.
 - 6. **Unified Development** - The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

Sustainable Design - Renewable Energy
Urban PUDs, in most cases, are limited to solar energy as the on-site renewable energy source. PUDs with a larger land area, or those with both industrial uses or large parking areas, may be able to incorporate wind energy. However, wind energy technology has some safety and potential resonance issues in regard to tower fall zones, noise, and visual impacts. These tend to limit the applicability of wind energy to locations that have sufficient open space, for large areas, or are able to absorb the wind energy in a way that does not provide an obstructive view to the surrounding area. PUDs with solar energy should be designed to provide the maximum solar energy possible. Geothermal based HVAC systems are available and are considered as renewable energy and have a wide applicability, provided that soil conditions are appropriate and system design is managed to ensure that the heat sink capability of the site is not exceeded.

C. **Required Exhibits and Narratives** - The following exhibits and written narratives shall be submitted to the zoning administrator by the proposed developer as a part of the application for a conditional use permit:

1. **Character** - An explanation of the character of the planned development and the manner in which it has been planned to take advantage of the planned development regulations.
2. **Ownership** - A list of the present ownership of all the land included within the planned development and a list of property owners within 500 feet of the outer boundaries of the property as obtained through County records.
3. **Schedule** - A general indication of the expected schedule of development including progressive phasing and time schedule.
4. **Mapped Information** - A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street right-of-ways, utilities, and buildings for the property and for the area 500 feet beyond.
5. **Natural Features** - Natural features, maps or maps of the property and area 500 feet beyond showing contour lines at no more than two-foot intervals, drainage patterns, wetlands, vegetation, soil, and subsoil conditions.
6. **Proposed Land Uses** - A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
7. **Government Services** - Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water systems, streets and other public utilities.
8. **Soils** - An engineering report presenting results of percolation tests and soil analysis of the site.
9. **Sustainable Design** - Full description as to how sustainable building design requirements will be met, including third-party certification, consistent with Model Community's sustainable design standards.
10. **Additional Information** - Any additional information requested by the city staff, the planning and zoning commission and city council that may be required for clarification of the proposed project.
11. **Copies** - Twenty-six copies of all required information shall be submitted.

Sustainable Design - Building Codes

Minnesota has a "model" state energy code, which means that communities are not allowed to be either more or less stringent than the standards. Including provisions in the PUD for higher levels of energy efficiency than required by the State code must be done in a way that does not mandate exceeding the State energy code. For most PUD ordinances, this is satisfied by the PUD ordinance being a voluntary option selected by the developer. Using a third party standard such as LEED or Green Star provides additional clarity as these standards do not substitute for the energy code but allow the developer to select from a range of options for meeting the certification process. The state code is certified by a third party rather than the local building code official.

Soils

One component of sustainable design is maximizing the utilization of rain water on the site. Such information is critical to knowing where the ideal infiltration area are. Rather than design big pits to catch their rainwater for landscape irrigation ponds, the PUD should use the soils information to identify opportunities for the use of low-impact development techniques.

- D. **Subdivision Process** - The applicant shall submit a preliminary plat for all or that portion of the project to be platted including all the necessary documentation required under Model Community's subdivision ordinance. For purposes of administrative simplification, the public hearings required for the conditional use permit, preliminary plat, and rezoning of property (if necessary) may be combined into one hearing or may be held concurrently.

XII. Final Development Plan and Development Agreement

- A. **Final Plan to Include All Required Modifications** - The final development plan with recommended modifications, if any, and if necessary, the modified preliminary plat, shall be filed with the zoning administrator containing the information required in the general development plan plus any changes recommended by the planning and zoning commission and the city council as a result of the public hearing.
- B. **Final Plat** - The applicant shall also submit a final plat for all or that portion to be platted. The final general development plan shall be submitted with the first final plat which shall conform to the approved general development plan and approved preliminary plat. Such plats may be submitted in smaller increments as may be economical to finance or construct at one time. This plan shall include any recommended changes by the planning and zoning commission or city council to the original general development plan and original preliminary plat.
- C. **Development Agreement Required** - A development agreement, signed by the applicant and noting all conditions of the final development plan, shall be submitted with the final plat. The development agreement shall include an expiration date consistent with the phasing of the project.
- D. **Review of Final Documents** - The Council shall review the final development plan and final plat. If the final development plan is approved by the Council, the zoning administrator shall issue a conditional use permit to the applicant.

Development Agreements
The PUD final plan identifies the conditions of the community in regard to the proposed development. The development agreement is a contract in which the developer's responsibilities are clearly assigned and linked to the parcel of land which has been platted and approved for development. The agreement protects the interests of the community, particularly when the owner may be committing to investments in infrastructure or has reserved the land in order to allow the PUD to proceed.

- XIII. **Enforcement of Development Schedule** - The construction, restoration, and other provisions of all of the common open spaces, public and recreational facilities, renewable energy or low-impact development infrastructure, or other required amenities identified in the final development plan and development agreement must proceed at the same phase of the construction of dwelling units and commercial buildings. From time to time the zoning administrator may review all of the building permits issued for the planned development and examine the construction which has taken place on the site. If the zoning

administrator finds that the rate of construction of dwelling units is greater than the rate at which open space, public and recreational facilities, renewable energy and LID infrastructure, or other amenities have been constructed and provided, the administrator shall forward this information to the Council, which may modify or revoke the planned unit development permit.

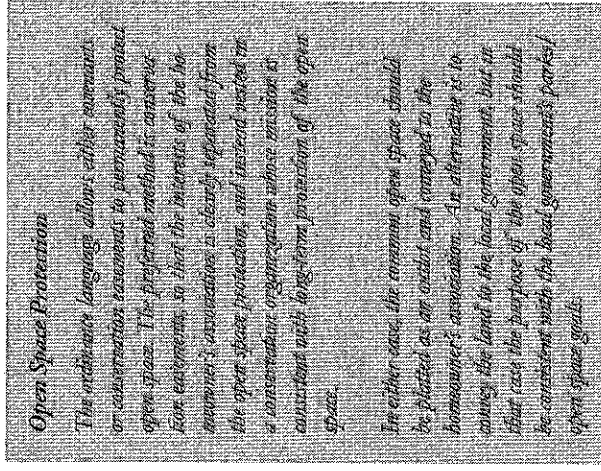
XIV. Conveyance and Maintenance of Common Open Space

A. **Open Space Platted and Conveyed** - All land shown on the final development plan as common open space must be conveyed to a homeowners' association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be permanently restricted to the uses specified on the final development plan, either by:

1. Assigning covenants, to be approved by the Model Community attorney, restricting the common open space to its designated purpose and providing for long-term maintenance in a manner that assures its intended purpose.
2. Placing conservation easements on the open space that restrict the open space to its designated purpose and provide for long-term maintenance that assures its intended purpose. The easements shall be held and managed consistent with Minnesota Statute.

B. **Hometowns' Association Required** - A homeowners' association or similar organization must be created if the PUD includes common open space. The applicant shall submit all required homeowners' association documents to the Model Community attorney and planning staff at the time of the first final plat of development, including the following:

1. Ownership and membership requirements.
2. Articles of incorporation and bylaws.
3. Time at which the developer turns the association over to the homeowners.
4. Approximate monthly or yearly association fees for homeowners.
5. Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.
6. Management plans for items owned in common.



XV. Standards for Common or Open Space - No open area may be approved as common open space under the provisions of this article unless it meets the following standards:

- A. **Suitable for Development** - The location, shape, size, and character of the common open space must be suitable for the planned development.
- B. **Uses of Open Space** - Common open space must be used as a natural amenity or for recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
- C. **Required Improvements** - Common open space must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.
- D. **Other Outlots** - Outlots to be dedicated for park, ponding or other purposes shall be deemed to Model Community before the final plat is released for recording.

Uses of Open Space
The uses listed here include but are not limited to:
recreation, passive recreation, walking, jogging, bicycling, horseback riding, fishing, hunting, bird watching, photography, etc.
Other uses that may apply to some developments include:
parking areas, chain link for security, maintenance system, agriculture, organic food production, or renewable energy production (solar, wind, etc.)

XVI. Review and Amendments

- A. **Commencement of Development** - From time to time the zoning administrator may review PUDs within the Model Community and may make a report to the Council on the status of non-compliance for a particular PUD. If the zoning administrator finds that the development has not commenced within one year after the original approval of the conditional use for the PUD, the zoning administrator may recommend that the Council extend the time or revoke the conditional use permit as set forth in Model Community's conditional use process. Prior to cancellation or revocation of this permit, the Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- B. **Additional Phases** - For additional phases of the PUD, if within five years the project has not progressed, the zoning administrator may recommend that the Council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the PUD, the Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.

- C. **Minor Changes** - Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.
- D. **Major Changes Require New Development Agreement** - Major changes, such as rearrangement of lots, blocks and building tracts require a public hearing and renegotiated development agreement. All changes shall be consistent with the purpose and intent of the original approved final development plan and the Comprehensive Plan. All amendments to the development agreement shall require the same procedures as for the application for a conditional use permit as set forth in Model Community's ordinances.