

SECTION 8. PLANNED DEVELOPMENT DISTRICTS

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8.1 PURPOSE

The purpose of these planned development regulations is to:

- A. Encourage flexibility in the development of land and in the design of structures.
- B. Encourage planned diversification in the location of structures.
- C. Encourage a creative approach to the use of land that results in better development and design than might otherwise be accomplished under the strict application of other Sections of this Ordinance.
- D. Provide for the efficient use of land to facilitate a more effective arrangement of land uses, buildings, circulation systems and utilities.
- E. Provide for more usable and suitably located open space and recreation areas than might otherwise be provided under the application of other Sections of this Ordinance.
- F. Encourage the construction of appropriate aesthetic amenities which will enhance the character of the site.
- G. Guarantee quality construction commensurate with other developments within the community, and compatible with the character of the surrounding area and adjoining properties.
- H. Facilitate the implementation of the Land Use and Transportation Plan.
- I. Provide for the development of unique land areas and sites that would not be possible under the strict application of the other Sections of this Ordinance.

- J. Encourage quality construction and design through an efficient application procedure which is sensitive to the need for expeditious development review.

8.2 INITIATION

Applications for planned developments may be filed in accordance with Section 3.2 (Application) and the provisions of Section 8.3 (Authorization).

8.3 AUTHORIZATION

A planned development may be authorized in all zoning districts. A planned development shall be granted in accordance with the procedures and standards of this Section. The ordinance granting or amending the planned development may depart from the normal procedures, standards and other requirements of this Ordinance to the extent, and only to the extent, set forth herein.

8.4 GENERAL STANDARDS FOR PLANNED DEVELOPMENTS

- A. The site of the planned development shall be under common ownership and/or unified control. If there are two (2) or more owners, the application for the planned development shall be jointly filed by all such owners.
- B. The ordinance authorizing the planned development may grant exceptions to lot and building bulk regulations as may be desirable to achieve the objectives of the proposed planned development, provided that such exceptions are fully consistent with and authorized by Section 8.5 (Exceptions from District Standards).
- C. Planned developments shall be compatible with the purpose and intent of this Ordinance and the City's Land Use and Transportation Plan. A planned development shall not, in the opinion of the City, substantially diminish the market value of surrounding properties, and it shall cause no substantial impairment of the use of those properties.
- D. Planned developments shall not adversely affect the natural environment of the community as a whole. Natural assets and features, such as existing trees and native vegetation, shall be protected and preserved to the greatest extent practical.
- E. The site shall be accessible to public streets that are adequate to carry the traffic that will be generated by the proposed development. The applicant shall be responsible for the cost and installation of additional traffic controls and regulating devices that are required. A traffic study may be required.
- F. All proposed streets, alleys and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic. Access points to public streets, and the location of private streets, alleys and driveways shall be subject to the approval of the Planning Commission.

- G. The pedestrian circulation system and its related walkways shall be located to provide for separation of pedestrian and vehicular movement and for maximum pedestrian safety.
- H. All planned developments shall provide for underground installation of utilities, including electricity, cable and telephone. Provisions shall be made for acceptable design and construction of storm sewer facilities and appropriate storm retention and detention devices which are similar to a grass lawn. The construction and maintenance of all utilities, roadways, parking facilities and other site improvements shall be in accordance with the requirements of this Ordinance and other regulations of the City.

8.5 EXCEPTIONS FROM DISTRICT STANDARDS

- A. Within Planned Developments, the Planning Commission may recommend, and the Board of Mayor and Aldermen may grant, exceptions to the district lot and building bulk standards as contained in Section 6 (Residential Districts) and 7 (Commercial Districts) provided the exceptions conform to Sections 8.6 (Residential Planned Developments) and 8.7 (Commercial Planned Developments). The planned development is subject to the underlying district regulations unless such exception is granted. Such exceptions from district regulations may be granted for planned developments if the Board of Mayor and Aldermen finds that allowing such exceptions:
 - 1. Enhances the overall merit of the planned development.
 - 2. Promotes the objectives of both the City and the development.
 - 3. Enhances the quality of the design of the structures and the site.
 - 4. Enables the development to offer environmental and pedestrian amenities.
 - 5. Will not cause such an adverse impact on neighboring properties so as to outweigh the benefits of the development.
 - 6. Is compatible with the land use policies of the City's Land Use and Transportation Plan.
 - 7. Provides a public benefit to the City, as described in Section 8.5C below.
- B. The planned development may allow all uses allowed in the underlying district. However, the City may determine that the uses should be further restricted by not allowing certain uses which are otherwise allowed in the underlying district and which would not be compatible with the intended character of the planned development.
- C. The underlying zoning district requirements shall apply, unless an exception is granted as allowed by Section 8.5A as part of the approved planned development.

Said exceptions may be granted where it is determined that such modifications shall not negatively affect the value and enjoyment of surrounding property, the provision of municipal services, or the flow of traffic. To be granted such exceptions, the planned development applicant must demonstrate superior design and enhanced amenities. In no case shall an exception to district regulations within a planned development be granted unless the applicant demonstrates a substantial benefit to the City. Design characteristics and amenities to be considered in this determination shall include, but are not limited to the following:

1. Landscaping, buffering or screening within or around the perimeter of the planned development that is in addition to the minimum required by this Ordinance.
2. The provision of additional landscaping and screening of parking lots and structures in addition to the minimum required by this Ordinance.
3. Reduced use of impervious surface materials, including use of semi-pervious materials such as grass-crete.
4. Design characteristics including, but not limited to, mixed-use development, circulation systems that utilize alleys or traffic-calming techniques, and a pedestrian-oriented environment.
5. Use of sustainable design and green architecture such as: green roofs and other energy efficient design concepts; water conservation; environmental sensitivity; new building technologies; Leadership in Energy and Environmental Design (LEED) techniques; and xeriscaping (water conservation landscaping).
6. Community amenities including plazas, malls, formal gardens, places to congregate, outdoor seating, public art, and pedestrian and transit facilities.
7. Preservation of environmental features.
8. Preservation of historic features.
9. Recreational amenities such as:
 - a. Swimming pools
 - b. Outdoor rooms, arbors, gazebos, seating areas and other hardscape
 - c. Clubhouse with meeting and fitness facilities
 - d. Jogging trails and fitness courses
 - e. Playgrounds
 - f. Lakes, natural water features, wetlands and conservation areas

- g. Retention ponds and detention areas which are accessible to occupants or the public via nature trails, boardwalks, and/or perimeter walkways, but only if they are designed as natural water features and are landscaped with native vegetation
- 10. Additional public infrastructure improvements in addition to the minimum required by this ordinance, such as ornamental street lights, street name signs, stop signs and mailboxes.
- 11. Provision of sign standards which exceed the minimum required by this Ordinance.
- 12. Provision of a Design Guide with design standards which exceed the minimum required by this Ordinance. For residential planned developments, the developer is encouraged to provide elevations of the homes which are to be built.
- 13. Restrictive covenants which prohibit, limit or provide standards for utility buildings, fences and similar structures.

D. Common open space (pervious area) should be provided as follows:

RR	40%
ER	35%
SR-1	25%
SR-2, WR	20%
OTR, WFR & Residential parts of MXR and MXC	20%
Single-Family & Town Houses	20%
Multi-Family	35%

The above amounts are expressed in terms of minimum percentage of the gross acreage of land within each development. The Planning Commission may agree to a lesser amount proportionate to lesser density and/or greater design characteristics and amenities as listed above.

Floodway, steep slopes (over 20%), easements for major utilities, areas with outcropping of rock and other similar unusable areas shall not count for more than 25% of the above amounts of open space.

Open space is also beneficial to commercial planned developments. Such space could be passive or improved with amenities such as landscaping, sitting areas, fountains, walking paths, plazas and court yards.

- E. All storm water detention and retention areas shall be constructed and maintained in accordance with Section 11.4D12 (Detention and Retention Ponds)
- F. Common open space, as shown on the approved Planned Development Final Master Plan, shall be shown as common open space on all subdivision plats and site plans required by this ordinance and other laws and in accordance with the Phasing Plan (See Section 8.8D1g) approved by the City. For example, if the Master Plan for a residential development includes open space with a gazebo in phase 3, said open and gazebo shall be shown on the phase 3 plat. Adequate surety shall be provided prior to recording the phase 3 plat to cover the cost of the gazebo.

Adequate provision shall be made for the establishment of an association such as a homeowners association, property owners association, business owners association, community association or other legal entity with direct responsibility to, and control by, the property owners involved to provide for the ownership, operation and maintenance of all common open space and amenities, including any private streets and sidewalks. The applicant shall submit a legal instrument, such as a declaration of covenants and restrictions, establishing provisions for the use and permanent maintenance of the common areas and amenities and demonstrating that the association is self-perpetuating and adequately funded to accomplish its purposes. The provisions of this instrument shall include, but not be limited to, the following:

1. The association must be established and operational before any property is sold
2. Membership must be mandatory for each property owner and must run with the land so that any successive purchaser will automatically become a member.
3. The restrictions covering the use, etc of the common areas must be permanent, not just for a period of years.
4. The association must be responsible for liability insurance, taxes and the maintenance of the common areas and amenities.
5. Property owners must pay their pro rata share of the cost assessed by the association and said assessment can become a lien on the property for failure to pay.
6. The association must be able to adjust the assessment of fees to meet changing needs.

In the event that the association, or any successor, shall at any time fail to maintain the common areas and amenities in reasonable order and condition in accordance with the master plan, the Planning Department may serve written notice upon such association and/or the owners and hold a public hearing. After thirty days when deficiencies or maintenance are not corrected, the Planning Department shall call upon any public or private agency to maintain the common areas and amenities for a

period of one year. When the Planning Department determines that the association is not prepared to maintain the common areas and amenities, such agency shall continue maintenance for yearly periods. The cost of such maintenance shall be assessed proportionately against the properties within the development. Said cost shall become a lien on said properties.

8.6 RESIDENTIAL PLANNED DEVELOPMENTS

A. Minimum Size

The minimum size of a residential planned development shall be five (5) acres.

B. Permitted Uses

Permitted Uses shall adhere to the applicable base zone of the planned development listed in Table 1 (Residential Districts: Permitted and Conditional Uses). Uses which are listed as Conditional Uses in Table 1 may, at the discretion of the City, be allowed as Permitted Uses. No use shall be allowed unless allowed as a Permitted or Conditional Use in the base zone of the planned development as listed in Table 1. Uses listed in Table 1 which are not compatible with the proposed planned development should not be allowed. Accessory and Temporary Uses shall be allowed under the same terms and conditions of the base district unless specifically stated to the contrary on the Master Plan.

C. Lot and Building Bulk Standards

Table 5 (Lot and Building Bulk Standards Residential Planned Developments) establishes minimum lot area, width, and yards and maximum lot coverage, density and building height for residential planned developments.

Maximum density, as shown on Table 5, shall not be exceeded under any terms even if lots must be larger than the minimum allowed by Table 5. Likewise, lots shall not be smaller than specified by Table 5 even if the maximum density as specified in Table 5 may not be achieved.

Greater standards than specified in Table 5 may be imposed and specified on the Development Plan.

Unless otherwise specified on the Development Plan, the yard encroachments and height exceptions as stated in Section 10.5 (Permitted Encroachments and Height Exceptions) shall be allowed.

D. Building Design Standards

See Section 12.2 (Residential Building Design Standards).

CITY OF HENDERSONVILLE, TN
TABLE 5: LOT AND BUILDING BULK STANDARDS
RESIDENTIAL PLANNED DEVELOPMENTS

Bulk Regulations	RR	ER	SR-1	SR-2	WR	MXR ¹	OTR	MFR	MXC ¹
Max Density (units/ac ²)	0.500	1.3	3	4	4	4	15	15	15
Min. Lot Area ³ (sq ft)	12,500	10,000	SF: 7,500 TH: 2,400	SF: 6,500 TH: 2,400	SF: 6,500 TH, MF: 2,400	SF: 6,500 TH, MF: 2,400	SF: 4,000 TH, MF: 2,400	SF: 4,000 TH, MF: 2,400	SF: 4,000 TH, MF: 2,400
Min. Lot Width ³ (ft)	75	60	SF: 60 TH: 24	SF: 55 TH: 24	SF: 55 TH, MF: 24	SF: 55 TH, MF: 24	SF: 40 TH, MF: 20	SF: 40 TH, MF: 20	SF: 40 TH, MF: 20
Max. Lot Coverage	25%	30%	SF: 30% TH: 65%	SF: 35% TH: 70%	SF: 40% TH: 70% MF: 40%	SF: 50% TH: 75% MF: 40%	SF: 50% TH: 75% MF: 40%	SF: 50% TH: 75% MF: 40%	SF: 50% TH: 75% MF: 40%
Max. Building Height (ft)	35	35	35	35	35	35	45	45	45
Min. Front Yard ^{3,4} (ft)	30	25	SF: 20 TH: 20 ⁵	SF: 20 TH: 20 ⁵	SF: 20 TH: 20 ⁵ MF: 20 ⁵	SF: 20 TH: 20 ⁵ MF: 20 ⁵	NOTE 6	SF: 20 TH: 20 ⁵ MF: 20 ⁵	SF: 20 TH: 20 ⁵ MF: 20 ⁵
Min. Side Street Yard ^{3,4} (ft)	20	20	SF: 20 TH: 10	SF: 20 TH: 10	SF: 20 TH: 10 MF: 10	SF: 12 TH: 10 MF: 10	NOTE 6	SF: 20 TH: 10 MF: 10	SF: 12 TH: 10 MF: 10
Min. Side Yard ³ (ft)	10	8	SF: 7 TH: 7 ⁷	SF: 6 TH: 6 ⁷	SF: 6 TH: 6 ⁷ MF: 8 ⁷	SF: 6 TH: 6 ⁷ MF: 8 ⁷	SF: 5 TH: 5 MF: 8 ⁷	SF: 6 TH: 6 ⁷ MF: 8 ⁷	SF: 6 TH: 6 ⁷ MF: 8 ⁷
Min. Rear Yard ³ (ft)	25	20	20 ⁸⁹	20 ⁸⁹	20 ⁸⁹	20 ⁸⁹	20 ⁸	20 ⁸	20 ⁸

SF - Single-Family TH- Townhome MF - Multi-family

Notes:

1. This table does not apply to commercial and other non-residential uses which are allowed within this mixed residential/commercial zone. See Table 6.
2. Total acreage within the subdivision or development, including right-of-way, common open space, etc., divided by the Maximum Density shown on this line yields the number of dwelling units allowed.
3. The bulk regulations shown on this line apply to residential dwellings. The bulk regulations for all other permitted and conditional uses, i.e., church, school, etc., are twice the amount specified on this line.
4. Garages shall be at least 20 feet from the sidewalk. If no sidewalk, then garages must be 20 feet from edge of street.
5. 10 feet with rear alleys and no driveways in the front
6. In the OT-R district, buildings have a build-to requirement as opposed to a minimum setback. The front and side street build-to line is a minimum of 15 feet and a maximum of 35 feet. At least 40% of the front façade must meet this requirement. Additionally, a front porch is permitted to encroach up to 6 feet into the required front yard. Such porch shall be limited to 8 feet in width and a single story in height.
7. A side yard of at least the dimension given in this Table is required on each end of a group of attached townhomes and multi-family dwellings. 0 feet is required on the interior sides of each townhome and multi-family dwelling (shared wall).
8. Homes with alley-loaded garages: the garage shall be a minimum of 5 feet from the alley. If it is more than 5 feet from the alley, it shall be at least 20 feet so that a car parked in the driveway will not block the alley.
9. 10 ft adjacent to U.S. Army Corps of Engineers' property on Old Hickory Lake

8.7 COMMERCIAL PLANNED DEVELOPMENT

A. Minimum Size

The minimum size of a commercial planned development is three (3) acres.

B. Permitted Uses

Permitted Uses shall adhere to the applicable base zone of the planned development as listed in Table 3 (Commercial Districts: Permitted and Conditional Uses). Uses which are listed as Conditional Uses in Table 3 may, at the discretion of the City, be allowed as Permitted Uses. No use shall be allowed unless allowed as a Permitted or Conditional Use in the base zone of the Planned Development as listed in Table 3. Uses listed in Table 3 which are not compatible with the proposed Planned Development should not be allowed. Accessory and Temporary Uses shall be allowed under the same terms and conditions of the base district unless specifically stated to the contrary on the Master Plan.

C. Lot and Building Bulk Standards

Table 6 (Lot and Building Bulk Standards Commercial Planned Developments) establishes minimum lot pervious and yard areas and maximum building height and floor-area ratio for commercial and industrial planned developments. Greater standards may be imposed and specified on the Development Plan in order to conform to the Land Use Plan and other similar plans and to be consistent with the neighborhood. Unless otherwise specified on the Development Plan, the yard encroachments and height exceptions authorized by Section 10.5 (Permitted Encroachments and Height Exceptions) shall be allowed.

CITY OF HENDERSONVILLE, TN
TABLE 6: LOT AND BUILDING BULK STANDARDS
COMMERCIAL PLANNED UNIT DEVELOPMENTS

Bulk Regulations	MXR ^{1,2}	NC	O	OTC ³	MXC ^{1,2}	GC	HC	I
Min. Lot Area (sq ft)	3,000	3,000	3,000	5,000	5,000	5,000	7,500	7,500
Max. Floor to Area Ratio	0.5	0.5	1.5	1.0	1.0	1.0	0.5	0.5
Max. Building Height (ft)	35	25	75 ⁴	Note 5	75 ⁴	75 ⁴	45 ⁴	45 ⁴
Min. Pervious Area	30%	30%	25%	20%	25%	25%	20%	20%
Min. Front Yard (ft)	20	20	20	Note 5	20	20	30	30
Min. Side Street Yard (ft)	20	20	20	Note 5	20	20	30	30
Min. Side Yard (ft)	10 ^{6,7}	10 ^{6,7}	10 ^{6,7}	Note 5,7	10 ^{6,7}	10 ^{6,7}	10 ^{6,7}	10 ^{6,7}
Min. Rear Yard (ft)	20 ⁷	20 ⁷	20 ⁷	Note 5,7	20 ⁷	20 ⁷	20 ⁷	30 ⁷

SF - Single-Family TH - Townhome MF - Multi-Family

Notes:

1. This table does not apply to residential uses which are allowed in this mixed commercial/residential zone. See Table 2.
2. Master Plan required.
3. This table does not apply to residential uses allowed in this zone "above commercial uses". Refer to Section 8, Table 5.
4. Where bordering a district with greater restrictions, see Section 7.4B, Special Height Standards.
5. See Section 12.3G4 (Building Placement, Height and Massing).
6. Zero with party wall conforming to City's Building Code.
7. Where non-residential is bordering a residential zone or area, provide buffer/screen as specified by Section 11.4J (Buffer Yards).

D. Market Analysis

The Planning Commission or Board of Mayor and Aldermen may require a market analysis for any proposed commercial planned development. The analysis will be utilized, among other things, to determine the impact of the proposed development on the long-term development of commercial land use in the Hendersonville area, to determine the timing of any proposed development, to ascertain the effects of a proposed development upon lands used or zoned for commercial purposes; to form a basis for evaluating the estimated effects on traffic, and other purposes which assist in an understanding of the public interest pertinent in the evaluation of a proposed development. The market analysis, if required, shall be provided by the developer and the developer shall provide any other economic data or analysis as may be reasonably requested by the Planning Commission or Board of Mayor and Aldermen.

E. Site Development Standards

See Section 11 (Site Development Standards) for standards pertaining to parking and loading, lighting, landscaping, screening and tree protection.

F. Building Design Standards

See Section 12.3 (Commercial Building Design Standards).

G. Sign Standards

See Section 13 (Sign Standards).

8.8 PROCEDURE

Approval of a planned development may be a four-step process: (1) pre-application consultation; (2) concept plan (optional); (3) approval of a Preliminary Development Plan; and (4) Final Development Plan. No plats shall be recorded and no building permit shall be issued until a Final Development Plan has been approved. (See Appendix A for Zoning Map Amendment and Planned Development Process).

A. Pre-Application Consultation

Prior to the filing of an application for a planned development, the applicant shall confer with the City staff regarding the proposed development. At the pre-application meeting the applicant shall provide information regarding the location of the proposed planned development, the proposed uses, proposed public and private improvements, a list of any known exceptions to this Ordinance or other regulations of the City, and any other information necessary to clearly explain the planned development. The purpose of such pre-application presentation and conference is to assist the applicant in determining:

1. Whether the proposed planned development appears to be in general compliance with the provisions of this Ordinance and other regulations.
2. Whether any proposed zoning exception is within the limits authorized by Section 8.5 (Exceptions from District Standards).
3. Whether the proposed planned development will be in conformity with the Land Use and Transportation Plan, and the goals and policies of the City for development. The pre-application conference does not require formal application, fee or filing of a planned development.

B. Optional Concept Plan

1. Before submitting a formal application for a planned development, the applicant may present a concept plan to the Planning Commission. The purpose of this submission is to obtain information and guidance prior to entering into binding commitments or incurring substantial expense. There shall be no formal vote on this concept plan. At a minimum, such a concept presentation shall consist of the following:
 - a. A map or maps in general form containing the proposed land uses, the natural features of the development site, the character and approximate location of all roadways and access drives proposed within the planned development, the location of all adjacent public streets, thoroughfares and public utilities, and schematic drawings showing the size, character and location of buildings on the site.
 - b. A written statement containing a general explanation of the planned development, including a statement of the present ownership of all the land within the development and the expected schedule of construction.
2. Planning Staff and other relevant City staff shall review the concept plan, and may provide such information and guidance as it deems appropriate. Any opinions or advice provided shall in no way be binding with respect to any official action the City may take on the subsequent formal application. This does not require an application form or fee.

C. Application for a Planned Development. (Including Review of the Preliminary Development Plan)

Applications for planned developments shall be filed with the Planning Department, in accordance with the requirements of Section 3.2 (Application) and shall contain a Preliminary Development Plan. Upon receiving a complete application, the Planning Department shall forward the application and Preliminary Development Plan to the Planning Commission.

1. Minimum Substantive Requirements

Every application for a planned development and review of the Preliminary Development Plan shall contain the following:

- a. A plat of the survey of the parcel or parcels of land comprising the zoning lot. The plat shall be drawn to scale showing the actual dimensions of the zoning lot, including all parcels or lots within the zoning lot. The plat shall be drawn in accordance with the recorded plat of such land, if such exists.
- b. Proof of ownership.
- c. A site location map drawn to an appropriate scale showing the streets and all property uses located within three hundred (300) feet in all directions of the development site. The map shall indicate the location, height or number of stories and use of all existing buildings and structures on properties immediately adjacent to the development site and within three hundred (300) feet.
- d. A preliminary plan stamped by a design professional and drawn to an appropriate scale showing:
 - i. The location, ground area, height, and bulk of all existing and proposed buildings and structures within the planned development.
 - ii. The use or uses to be made of such existing and proposed buildings and structures.
 - iii. Minimum building setback/yard requirements.
 - iv. The location and dimensions of all pedestrian walkways, driveways, streets, parking and loading facilities, including the number of parking spaces serving each building or land use type and all parking related screening and landscaping.
 - v. The location and dimensions of any areas proposed to be conveyed, dedicated or reserved for parks, parkways, playgrounds, places of worship, school sites, public buildings or for any other public or quasi public use.
- e. Typical building elevations and schematic design presentations indicating the general architectural character of all proposed buildings and structures. The drawings need not be the result of final architectural decisions and need not be in detail.
- f. A traffic circulation plan indicating the proposed movement of vehicles, goods and pedestrians within the planned development and to and from adjacent

streets. The plan shall address the impact of the proposed planned development upon existing traffic patterns. Such plan shall also include an examination of the adequacy of on site parking facilities, vehicular circulation patterns and pedestrian access and safety. A traffic study may also be required by the City Engineer or the Planning Commission for developments which generate more than five hundred (500) trips per day.

- g. A drainage plan indicating the manner in which surface drainage will be controlled and managed.
- h. A utilities study prepared by a qualified professional indicating the adequacy of the utility systems serving the proposed planned development, including water distribution lines, sanitary sewers, storm water drainage facilities and electricity.
- i. A preliminary landscape plan prepared by a qualified professional indicating the general character of all proposed landscaping, screening and fencing, including all open space areas around buildings and structures. The landscape plan need not be the result of final decisions and need not be in detail.
- j. A separate schedule setting forth any proposed exceptions to any City regulations. The schedule shall include, but not necessarily be limited to, the regulations governing density, area, bulk, and off street parking and loading as they apply to the zoning district or districts within which the planned development is to be located. This schedule shall cite by Section number each and every regulation from which an exception is sought.
- k. A rough draft of covenants and restrictions outlining minimum house size, building materials, restrictions on fencing, accessory buildings and the like.
- l. Such other documentation as the Planning Commission may, by general rule, require.

2. Procedural Requirements

The procedure for approval of the Planned Development shall be:

- a. The Planning Commission shall conduct a public hearing for the approval of the planned development and for review of the Preliminary Development Plan, in accordance with Section 3.4 (Public Hearing) no more than sixty (60) days after receipt of a complete application. Notice for the public hearing shall be in accordance with Section 3.3 (Notice). If, in the Planning Commission's judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the sixty (60)

day period shall be suspended pending receipt of all requested information. No planned development may be approved unless the Preliminary Development Plan is also approved.

- b. The Planning Commission shall determine if the planned development is or is not in the public interest based on the following:
 - i. Is the site or zoning lot upon which the planned development is to be located adaptable to the unified development proposed?
 - ii. Will the proposed planned development be detrimental to or endanger the public health, safety, comfort or general welfare of any portion of the community?
 - iii. Will the proposed planned development be injurious to the use and enjoyment of other property in the vicinity for the purposes already permitted?
 - iv. Will the proposed planned development diminish or impair property values within the neighborhood?
 - v. Will the proposed planned development impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district?
 - vi. Is there provision for adequate utilities, drainage, off street parking and loading, pedestrian access and all other necessary facilities?
 - vii. Is there provision for adequate vehicular ingress and egress designed to minimize traffic congestion upon public streets?
 - viii. Are the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities, compatible with the surrounding neighborhood and adjacent land uses?
 - ix. Is there suitable landscaping for the portions of the proposed planned development which are not to be used for structures, parking and loading areas or access ways?
 - x. Is the planned development, in the specific location proposed consistent with the spirit and intent of this Ordinance and the Land Use and Transportation Plan?
- c. Following the public hearing or within forty-five (45) days of the close of the public hearing, the Planning Commission shall take one of the following actions:

- i. Advise the applicant in writing of any recommended changes, additions or corrections to the Preliminary Development Plan. If such advice is given, the applicant may, within thirty (30) days, submit a revised Preliminary Development Plan for Planning Commission consideration at a new public hearing. The applicant may do so without paying an additional filing fee. The Planning Commission shall then recommend approval or denial of the Planned Development and submit its written recommendation to the Board of Mayor and Aldermen; or
- ii. Recommend denial of the application for the planned development. The Commission shall set forth, in writing, the reasons for its decision; or
- iii. Recommend approval of the planned development (including the Preliminary Development Plan) and submit its written recommendation to the Board of Mayor and Aldermen.

3. Board of Mayor and Aldermen Action.

The Board of Mayor and Aldermen, after receipt of the recommendations from the Planning Commission, shall approve, modify or deny the Planned Development within sixty (60) days following the receipt of the written recommendations of the Planning Commission. However, the Board of Mayor and Aldermen may, by motion, extend the sixty (60) day period. The Board of Mayor and Aldermen action shall be according to the procedure for a zoning map amendment (rezoning) as specified in Section 4.8 (Zoning Amendment), which may include a recommendation from the General Committee, a public hearing advertised in accordance with state law and passage of an ordinance on two (2) readings at two (2) separate board meetings.

4. Limitations on Denials

If an application for a planned development has been denied, by either the Board of Mayor and Aldermen or Planning Commission, no application for substantially the same planned development may be filed for a period of one (1) year from that date of denial. Whether the application is for “substantially the same planned development” shall be within the discretion of the Planning Department.

5. Submittal of New Plan

Should ownership of an approved Preliminary Development Plan change or market conditions or other conditions change, the owner may submit a new Preliminary Development Plan for review and approval. All procedures must be repeated. Should the City deny the new Plan, the previously approved Plan shall remain in effect. This process applies to Preliminary Development Plans which have not yet received Final Development Plan approval. The process for

amending a Final Development Plan is contained in Section 8.9 (Changes to Planned Developments).

D. Final Development Plan

1. Final Development Plan Procedure

Within three (3) years following the approval of the planned development and Preliminary Development Plan, the applicant shall file with the Planning Department for review by the Planning Commission a Final Development Plan or the applicant may submit a letter to the Planning Department to be presented to the Planning Commission to request a one (1) year extension of the approval of the Preliminary Development Plan. Such one (1) year extension request may be repeated for multiple years as long as the Planning Commission approves the request. Failure to apply for an extension does not void the planned development. However, the Planning Commission may recommend to the Board of Mayor and Aldermen the revocation of the planned development and Board of Mayor and Aldermen may revoke. If the planned development is to be developed in phases, the applicant need only file a Final Development Plan for the first phase of development, as indicated in the development and construction schedule prescribed below. The Final Development Plan for the remaining phases shall be filed in accordance with the development and construction schedule.

The owner may request revocation. Revocation, regardless of who initiates, shall be according to the process for a map amendment. The Board of Mayor and Aldermen may elect to revoke the master plan and leave the base zoning as is, or, if the original action to approve the master plan included rezoning, the Board of Mayor and Aldermen may elect to return the zoning to the original classification.

Every Final Development Plan shall contain the following information and documentation:

- a. In final form, all of the information required for the Preliminary Development Plan.
- b. A final plan stamped by a design professional and drawn to an appropriate scale which includes the following information:
 - i. Final designation of the location, ground area, height and bulk of all existing and proposed buildings and structures within the planned development.

- ii. A detailed tabulation of each separate land use area, including land and building areas, and where applicable, the total number of residential dwelling units and the residential density.
 - iii. The use or uses to be made of existing and proposed buildings or structures.
 - iv. The minimum building setbacks/yard requirements.
 - v. The location and dimensions of all pedestrian walkways, driveways, streets, parking and loading facilities, including the number of parking spaces serving each building or land use type and all parking related screening and landscaping.
 - vi. The location, dimensions and details of any areas to be conveyed, dedicated or reserved for parks, parkways, playgrounds, amenities, places of worship, school sites, public buildings or for any other public or quasi public use.
- c. All covenants, easements, agreements and other provisions required to govern the use, maintenance and continued protection of the planned development, along with an agreement assuring that the applicant, any subsequent owner or, where applicable, a condominium or owners' association shall be responsible for refuse disposal, all street, utility and common area and open space maintenance within the development.
 - d. A landscaping plan prepared by a qualified professional indicating the general character of all proposed landscaping, screening and fencing, including all open space areas around buildings and structures. Also include the location, height, design and illumination characteristics of all external lighting fixtures within the development.
 - e. A final utilities and drainage plan indicating the size and location of all water distribution lines, sanitary sewers and storm drainage facilities required to serve the planned development and the manner in which surface drainage will be controlled and managed.
 - f. Typical building elevations and schematic design presentations indicating the architectural character of all proposed buildings and structures.
 - g. A development and construction schedule indicating the following:
 - i. The date when construction of the planned development will begin or, if developed in phases, the date when construction of the initial phase will begin.

- ii. If the planned development is to be developed in phases, a map indicating the phases in which the planned development will be built, the dates when the Final Development Plans for all but the initial phase will be filed, and the approximate dates when construction of each subsequent phase will begin.
- iii. The date when construction of the planned development will be completed, and the date when a specific use or uses will be established, or if developed in phases, the date when construction of each phase will be completed, and the date when a specific use or uses will be established for each phase.

2. Action

The Final Development Plan shall be reviewed, and, if appropriate, approved as follows:

a. Review by the Planning Department

The Final Development Plan shall be in substantial compliance with the approved Preliminary Development Plan. Specifically:

- i. The number of residences shall not increase by more than 5%.
- ii. The square feet of non-residential building area (all floors) shall not increase by more than 10%.
- iii. Other lot and building bulk standards shall not be made less restrictive.
- iv. Dwelling types, including the mix of dwelling types, shall be substantially the same.
- v. Land uses (permitted uses) shall be substantially the same.
- vi. The street system shall be substantially the same.
- vii. Grading and infrastructure shall be substantially the same or better.
- viii. Open space, amenities and overall quality shall be substantially the same or better.
- ix. The phasing plan and schedule shall be substantially the same.

b. Review by the Planning Commission

The Planning Commission shall review the Final Development Plan within thirty (30) days of certification by the Planning Department that the application is complete and in substantial compliance with the approved Preliminary Development Plan. The review shall be for the purpose of determining whether the Final Development Plan is in conformity with Section 8.6 (Residential Planned Developments) and /or Section 8.7 (Commercial Planned Developments) and the approved planned development. Although comments may be taken from those in attendance, such review shall not be a public hearing.

c. Procedure After Review

- i. If the Planning Commission finds that the Final Development Plan is in conformity with the approved Preliminary Development Plan and all other City regulations; then the Commission shall so report to the Board of Mayor and Aldermen. If the Final Development Plan is found not to be in conformity with the approved Preliminary Development Plan or other City regulations, the Planning Commission shall inform the applicant with regard to specific areas found not to be in compliance. The applicant may resubmit the Final Development Plan with changes to those areas found not to be in compliance.
- ii. Within thirty (30) days of receipt of the Planning Commission's report, the Board of Mayor and Aldermen shall review and act upon the Final Development Plan. The Board of Mayor and Aldermen may accept the report of the Planning Commission or may conduct its own review of the Final Development Plan. Approval or denial shall be in the form of a resolution.
- iii. Submit at least two (2) copies of the approved Final Development Plan corrected as per conditions of approval and conforming to all requirements of this Section on a mylar suitable for recording with County Register of Deeds.

d. After Approval

- i. Within two (2) years from the approval of the Final Development Plan, the owner/developer shall submit a subdivision application or site plan for at least a portion of the site, or, the applicant may submit a letter to the Planning Department to be presented to the Planning Commission to request a one (1) year extension of the approval of the Final Development Plan. Such one (1) year extension request may be repeated for multiple years as long as the Planning Commission approves the request. Failure to apply for an extension does not void the planned development,

however, the Planning Commission may recommend to the Board of Mayor and Aldermen the revocation of the planned development and the Board of Mayor and Aldermen may revoke.

- ii. After the approval of the Final Development Plan, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development will be governed by the approved Final Development Plan and all other City regulations. If there is a conflict between the Final Development Plan and other regulations, the Final Development Plan shall prevail.

8.9 CHANGES TO PLANNED DEVELOPMENTS

Changes to an approved Preliminary or Final Development Plan which exceed the changes listed in Section 8.8D2a shall require re-approval by the Planning Commission and the Board of Mayor and Aldermen as an amended plan following the same procedure as for an original Preliminary or Final Development Plan approval. A Final Development Plan may be amended although the changes exceed the changes listed in Section 8.8D2a, however, the Planning Commission or the Board of Mayor and Aldermen may elect to conduct a public hearing prior to taking action if it is determined the proposed changes may have a greater impact on the neighborhood. Notice of the public hearing shall be in accordance with Section 3.3 B (Mailed Notice). Revisions which do not exceed the changes in Section 8.8D2a may be approved by the Planning Department. For such lesser revisions to a Preliminary Development Plan, the Planning Department may require the submittal of a revised/corrected Preliminary Development Plan. For such lesser changes to a Final Development Plan, the Planning Department may require the submittal of a revised/corrected Final Development Plan or may allow such revisions to be reflected in the subdivision plat or site plan.

The addition of a use to an approved Final Development Plan shall require approval of the Planning Commission, but not the Board of Mayor and Aldermen, unless the Planning Commission determines that the additional use could have a significant impact on the Planned Development. Under no circumstances shall a use be approved which is not permitted in the base zone.

Changes to Preliminary and Final Master Development Plans approved under a prior Zoning Ordinance shall conform to the Ordinance under which the Planned Unit Development was approved, or, at the discretion of the owner, to this Ordinance. In cases where the approved plan is silent in regard to these standards, or unclear, as determined by the Planning Department, the standards of the ordinance under which the development was approved shall apply.

Should the Planning Commission deny a request for a change, the owner may elect to pursue approval with the Board of Mayor and Aldermen.

8.10 REVOCATION

If construction work on the proposed planned development has not begun within five (5) years from the date of the Board of Mayor and Aldermen's vote to approve the Preliminary Development Plan, the approval of the planned development may be declared null and void and all rights shall lapse. Revocation shall be according to the process and terms of Section 8.8D1 (Final Development Plan Procedure).

8.11 CONDITIONS AND GUARANTEES

Prior to granting approval of any planned development, the Planning Commission may recommend, and the Board of Mayor and Aldermen may stipulate, such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the planned development as deemed necessary to guarantee performance of all conditions.

8.12 ISSUANCE OF BUILDING PERMIT

Building permits may only be issued if the construction work in question is in conformity with the approved Final Development Plan and with all other applicable ordinances and regulations.

8.13 ENFORCEMENT OF PLANNED DEVELOPMENT

The Planning Department shall periodically review all permits issued for the planned development in conjunction with the construction that has taken place on the planned development site, and compare actual development with the approved development and construction schedule, and require any corrective action necessary to assure compliance with the approved Final Development Plan and this ordinance.