

ARTICLE IV. – Zoning Districts

Sec. 156.76. – Planned Unit Development District - PUD

(A) Purpose

Planned Unit Development districts are established within the City of Hitchcock in accordance with the Comprehensive Plan and for the following purposes:

- (1) To provide flexibility in the planning and construction of development projects by allowing a combination of land uses to be developed as an integrated whole in accordance with an approved plan that protects adjacent properties.
- (2) To provide an environment within the layout of a development site that contributes to a sense of community and a coherent lifestyle and work environment.
- (3) To encourage the preservation and enhancement of natural amenities and cultural resources; to protect the natural features of a site that relate to its topography, shape and size; and to provide for a greater amount of useable open space.
- (4) To require the application of professional planning and design techniques, so as to provide for a more coordinated and efficient arrangement of mixed land uses, buildings, circulation systems and infrastructure.
- (5) To encourage in-fill development projects and the development of sites which are difficult to develop under conventional designs because of their shape, size, abutting development, poor accessibility, unique topography or other factors.

(B) Evaluation criteria.

In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods and thereby enhance property values in the community, and in order to maximize the efficiency of the street and utility systems, increase the affordability of new housing, improve the safety and separation of vehicular and pedestrian traffic, and increase the amount of

open space which is useable by the public, the planning and zoning commission shall use the following criteria in reviewing and evaluating PUD plans. These criteria are not to be regarded as inflexible requirements, nor are they intended to discourage creativity and innovation.

- (1) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal. The natural features of the landscape shall be integrated into the subdivision design as amenities enhancing the developed environment.
- (2) Proposed buildings shall be sited in harmony with the terrain and with other buildings in the vicinity that have a visual relationship to the proposed development.
- (3) Open spaces shall link residential areas with each other and with related non-residential destinations and provide amenities which enhance the residential environment. Where possible, these open spaces shall link directly to parks, other open spaces, schools and other community institutions adjacent to the subdivision.
- (4) Pedestrian paths, bicycle paths, driveways, parking areas and interior streets in the subdivision shall be located and designed to take best advantage of the topography and natural features of the landscape, to separate vehicular, bicycle and pedestrian traffic as much as practical, and to contribute to rather than detract from the design of proposed land uses and neighboring properties.

(C) Building Size, Height, and Area Regulations.

1. Residence structures must be a minimum of 1500 sq ft of climate-controlled space, exclusive of garages.

2. Primary and accessory structures may only cover 40% of the area of the property exclusive of roof overhangs. Rain gutters and downspouts must be installed on all primary structures to direct rain waters to defined drainage systems.

3. There is no minimum lot size specified for a residential lot in a planned unit development, provided that for each square foot by which the area of any residential lot is less than 4,000 square feet, the minimum open space requirement established by Section (D) is increased by an equivalent square foot of community open space.

4. Minimum lot width and minimum street frontage for residential lots in a Planned Unit Development will be defined during the project development process considering aesthetics, accessibility, emergency services, storm water management and property maintenance demands.

5. Building setback lines. Front, side, and rear yard setback requirements in a planned unit development will be determined during the development process, except as follows.

- (a) Along the perimeter of a planned unit development, all lots must meet the same minimum setback requirements as would be required in a zoned subdivision which is not a PUD, unless the planning and zoning commission and the city council approves a lesser setback in the PUD plan.
- (b) On any lot which has driveway access to a street, all buildings and other structures must be set back at least 15 feet from the lot line adjacent to the street to which the driveway connects.
- (c) On any corner lot, no wall, fence or other structure may be erected above a height of three feet, and no hedge, shrub, tree or other vegetation may be maintained above a height of three feet, within the triangular area formed by the intersecting street lines and a straight line connecting such street lines at points 25 feet from the point of intersection measured along such street line.
- (d) A minimum of ten feet of open space must be provided on all sides of every building, except that patio home dwelling units may be built with one side wall located on a lot line when a minimum ten-foot side yard setback is provided on the adjacent lot and such side yard setback on the adjacent lot is noted on the final plat. If a dwelling unit is constructed on a lot line, a 6-foot easement must be provided on the adjacent property to permit building structure maintenance and repair access for the structure built on the property line.
- (e) For duplex and townhome residential dwelling units, the common wall(s) must be centered on the property line and a 10-foot setback is required for the exterior side walls of the structure.
- (f) Drainage plan, drainage easements and utility easements shall be provided as required by the city engineer.

6. Each residential structure must include enclosed storage space for two (2) conventional vehicles plus paved parking space for two (2) additional vehicles.
7. Carports and RV storage/parking are prohibited on residential properties.

(D) Minimum open space requirements.

(1) Each planned unit development shall provide for a minimum amount of community open space as follows. For a residential PUD, the minimum requirement is 20 percent of the gross site area of the subdivision. For a non-residential PUD, the minimum requirement is 10 percent of the gross site area of the subdivision. For a PUD which includes both residential and non-residential development, the total requirement is calculated according to the relative proportions of the gross site area of the subdivision which are proposed to be developed in residential and non-residential uses.

(2) Reductions in minimum requirement. Up to 25 percent of the minimum community open space requirement may be met by including one-half of the area of any public park, unimproved floodplain or other beneficial open space area which is contiguous and accessible to the subdivision and which, in the judgment of the planning and zoning commission and the city council, has a reasonable expectation of perpetuity. At their discretion, the planning and zoning commission and the city council may also approve a decrease of up to 25 percent of the minimum community open space requirement when the PUD plan includes unique design features or amenities which achieve an especially attractive and desirable development, including, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features or cultural resources, or other unusual amenities which the commission and council finds will benefit the community as a whole in addition to the occupants of the subdivision. However, in no case may the total reduction in the minimum community open space requirement exceed 40 percent.

(3) Forms of dedication. The community open space required by this section may either be dedicated to the city as public park land or be dedicated as common area for use by the residents/occupants of the PUD, to be owned and managed by a community association which is

directly responsible to and controlled by the property owners in the subdivision. In the case of community open space, which is proposed to be dedicated as parkland, the city shall inspect the area in the field and make a recommendation to the planning and zoning commission at the time the commission considers the PUD plan as to the desirability of accepting the proposed dedication and the city's likely ability to fund the future operation and maintenance of the proposed facilities. In the case of proposed dedication as common area, the community association must meet the requirements of Section E below.

(E). Common areas and community association.

(1) Dedication of common areas and facilities.

All common areas and facilities which are to be dedicated for collective use or maintained and operated for common benefit by the residents/occupants of a planned unit development, including the community open space required by this ordinance and any fences, walls, parking areas or other facilities which are to be maintained for the common benefit of the property owners, shall be owned and managed by a community association which is directly responsible to and controlled by the property owners in the subdivision. The community association shall be established by a legal instrument constituting a plan for the operation, use, repair and permanent maintenance of the common areas and facilities through an association of the property owners which is self-perpetuating and adequately funded to accomplish its purposes through mandatory assessments against the individual property owners. The instrument establishing the association shall grant the city, other public agencies, political subdivisions and public utilities written permission for access to the common areas and facilities at any time and without liability when on official business, and permission to remove any obstructions if necessary to obtain timely and practical access, and to assess the cost of removal to the owner of the obstruction. If any part of the required community open space is to be dedicated as common area rather than as public park land, the instrument shall also covenant that the association will levy and enforce against the property owners sufficient assessments to satisfy a charge by the city for correcting deficiencies in the upkeep, maintenance and repair of the community open space under a maintenance agreement for these areas, in addition to any other association assessments for common purposes. The instrument must be approved by the city

attorney prior to consideration by the planning and zoning commission of the final subdivision plat and it shall be recorded at the same time as the final plat. Any amendments to this instrument by the developer, prior to the time the developer relinquishes majority voting control of the association to the property owners, must also be approved by the city attorney before being recorded and going into effect.

(2) Funding of community association.

Prior to approval of the instrument establishing a community association, the developer shall submit to the city manager a multi-year budget for the association including a fund reserved for the repair and maintenance of the common areas and facilities. The budget shall be accompanied by justifications and calculations demonstrating that the projected property owner assessments will be sufficient to fully fund both the current operation and the continued future repair and maintenance of the common areas and facilities. Prior to approving the budget, the city manager shall consult on the matter with a professional community association manager or association management specialist certified by the Community Associations Institute, or an equivalent expert in the management of community associations, who is independent of any contractual relationship with the developer. An estimate of the community association consultant's fee for review of the budget shall be included in the fee established by city council for review and processing of the PUD plan. At the same time as the instrument establishing the association is filed, the developer shall post a bond or other security, in a form acceptable to the city and payable to the association, guaranteeing that the reserve fund for repair and maintenance will be fully funded at the level projected in the budget at the time the developer relinquishes majority voting control of the association to the property owners. This bond or other security shall be held by the city for the benefit of the association, and it shall be released only upon the developer's submission to the city manager of proof, in a form acceptable to the city, that the reserve fund has been funded at the level projected and that the developer has relinquished majority voting control of the association to the property owners.

(3) Maintenance of community open space.

The legal instrument establishing the community association shall also be accompanied by a maintenance agreement between the city and the association for the upkeep, maintenance and repair of all the common

areas and common area facilities which are to be dedicated as community open space. This agreement shall provide for periodic inspection of the facilities by the city and for a procedure by which the city may give formal notice to the association of any deficiencies which are found in the upkeep, maintenance and repair of the facilities. Following notice and a reasonable time for the association to correct any deficiencies, the agreement shall authorize the city to undertake any work which may be necessary in the judgment of the city to repair or maintain the facilities at an acceptable standard and to charge the cost to the association. The agreement shall bind the association to levy and enforce against the property owners such assessments as may be necessary to satisfy the charge, and to make prompt payment to the city. The agreement must be approved by the city attorney prior to the consideration by the planning and zoning commission of a final subdivision plat. The agreement shall be recorded at the same time as the final plat, and a note indicating that such an agreement has been entered into shall be entered on the final plat.

(F) Transfer of open space dedicated as park land.

If any part of the community open space is to be dedicated as park land, the area to be so dedicated shall be indicated on the final subdivision plat as "Park Land Dedicated to the City of Hitchcock." The total acreage of the park shall be noted on the final plat, and the dedication of the park shall also be noted in the narrative portion of the final plat where the developer dedicates easements, rights-of-way and other improvements to the city.

(G). - Procedures for approval of PUD plan.

(1) Preliminary concept plan. Prior to submitting a PUD plan for approval, the developer must request a pre-application conference with the Community Development Director and designated city staff. At this conference the developer shall submit a preliminary concept plan for the planned unit development. The preliminary concept plan need not be engineered, but it must contain at least the following information in sufficient detail to permit understanding of the proposal.

(a) A map of the site, drawn to scale and showing north point, the boundaries of the proposed development, adjacent subdivisions, and the streets in the vicinity of the site.

(b) A map showing general topographic considerations affecting the site, floodplains and watercourses on the site and in the vicinity, and any other significant environmental features that may affect the site.

(c) The general layout proposed for the planned unit development, delineating the areas which are proposed for residential development, the forms and densities proposed in each such area, the areas proposed for non-residential development, and the general nature of the uses proposed in each such area, and the areas proposed as community open space, and the general character proposed for each such area.

(d) The total acreage of the site, the number of acres to be developed in each type of residential and non-residential development which is proposed, and the number of acres proposed to be dedicated as community open space.

(e) The total number of residential dwelling units of each type proposed, and the approximate gross square footage of each type of non-residential development proposed.

At the pre-application conference, the Community Development Director and staff will offer initial comments on the merits of the proposal, suggestions for refinement, and other information and advice to aid the developer in the preparation of a formal PUD plan.

(2) Coordination with zoning ordinance. The PUD plan for a subdivision may not be considered by the planning and zoning commission or city council until the commission and council have acted on the required zoning change(s) on the subdivision site.

(3) Form and content of PUD plan. The PUD plan for a proposed planned unit development subdivision must be drawn on reproducible mylar by a registered architect or registered engineer and must include the following:

(a) Date, scale, north point (with north to the top if possible), name of developer, and name of the person preparing the PUD plan.

- (b) The location of the city limit lines and the outer border of the city's extraterritorial jurisdiction if either traverses the subdivision or is contiguous to a subdivision boundary.
 - (c) The location, right-of-way width, name and description of all existing or recorded streets and alleys within or adjacent to the subdivision, as determined from existing records, and the location of all intersections adjacent to the subdivision.
 - (d) The right-of-way and description of all proposed streets and alleys within the subdivision.
 - (e) The location, right-of-way, and type or purpose of all existing easements within and adjacent to the subdivision.
 - (f) The centerline of existing watercourses, creeks and drainage structures within and adjacent to the subdivision, and the limits of the 100-year flood plains if applicable.
 - (g) The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features that are proposed to be developed.
 - (h) The area and acreage in each distinct type of proposed land use.
 - (i) The areas and acreages which are to be dedicated as community open space, including an indication whether the dedication is to be as a public park or as common area owned and managed by a community association.
 - (j) The location, type and height of the fences, walls or other screening devices which are proposed to buffer the PUD from adjacent developments and, within the PUD, to buffer one land use from another.
- (4) The information which is presented graphically in the PUD plan must be accompanied by the following information in narrative or tabular form:
- (a) The total number of dwelling units in each distinct type proposed, the total acreage in each distinct type of residential development, and the resulting densities in dwelling units per acre.
 - (b) The total acreage and gross square feet proposed in each distinct type of non-residential development.

- (c) Descriptions of the number, size and character of any active recreational facilities and community meeting spaces which are to be included in the community open space.
 - (d) Calculations showing the minimum total area of community open space which is required by this ordinance, and the actual areas which are proposed to be dedicated as community open space. A narrative justification must accompany any request for a reduction in the community open space requirement.
- (5) Processing of PUD plan. The PUD plan must be submitted to the Community Development Director, accompanied by the appropriate fee established by city council. No later than 21 calendar days of the submission, the Community Development Director shall review the PUD plan for completeness and compliance with all of the requirements of this ordinance, and notify the developer in writing of any deficiencies in the plan as initially submitted. When the PUD plan is accepted as complete by the city, the planning and zoning commission shall hold a public hearing and shall act on the PUD plan at the next regularly scheduled meeting of the commission which allows sufficient time for public notice and hearing. Notice of the public hearing must be given to all property owners within 200 feet of the boundaries of the proposed PUD subdivision.
- (6) Planning and zoning commission action. Following the public hearing on the PUD plan, the planning and zoning commission shall recommend to city council that council either approve the plan as submitted, approve the plan with amendments or conditions, or disapprove the plan. In recommending amendments or conditions, the commission shall be limited to recommending such amendments as are necessary in the commission's judgment to protect the public health, safety, morals and general welfare or conditions related to the acceptance of the proposed dedication of community open space as parkland. The commission shall file its report on the matter with city council as soon as practicable after adopting its recommendation to council.
- (7) Application for action by city council. Following the action by the planning and zoning commission, the developer may then file an application with the city manager for action by city council. Such application shall be accompanied by the appropriate fee established by city council. If the planning and zoning commission has recommended

amendments or conditions for approval of the PUD plan, the developer may incorporate these amendments or conditions in a revised plan to be presented to council without further action by the commission.

- (8) Hearing and action by city council. Following the receipt by city council of the report of the planning and zoning commission and of the developer's application to proceed, city council shall hold a public hearing and take final action on the PUD plan at the next regularly scheduled council meeting which allows sufficient time for public notice of the hearing. Notice of the hearing shall be published in the same manner as notice of a hearing before city council on a proposed change of zoning.
- (9) Joint hearings before commission and council. In filing an initial application for consideration of the PUD plan by the planning and zoning commission, the developer may request expedited action by filing an application to proceed before city council at the same time. Such request shall be accompanied by the appropriate filing fees for both actions. The commission and the council may then hold their public hearings on the matter jointly, provided that both the published notice of the hearings and the notice to the property owners within 200 feet of the subject property indicate that the hearings will be conducted by both the commission and the council. Following the conclusion of this joint public hearing, the city council may act on the matter without the necessity of a written report from the planning and zoning commission.
- (10) Approval when protested. If the planning and zoning commission recommends disapproval of the PUD plan, or if the PUD plan is protested in writing by the owners of 20 percent or more either of the number of lots or of the area of land immediately adjoining the proposed PUD subdivision and within 200 feet from the proposed subdivision boundary, then the PUD plan may not be approved except by a vote of at least three-fourths of all members of the city council.

(H). - Staging of development plan.

A PUD plan may be divided into stages for sequential development over time. In such a case, the initial PUD plan shall include the entire area of the tract which is to be developed as a planned unit development, and it shall indicate the sequence and approximate schedule for development of all the various subareas within the tract. Preliminary and final subdivision plats

which conform to the initial overall PUD plan may then be submitted for approval as individual subareas within the overall PUD when they are ready for development. Any variation in land uses from those approved in the initial PUD plan shall require approval of an amended overall PUD plan, under the same procedures as required for an initial PUD plan.

(I). - Timing of open space improvements.

All improvements to the required community open space which are shown in the PUD plan must be constructed by the developer at the same time as the developer constructs the streets, drainage system and other components of the subdivision infrastructure. Improvements to the community open space which is internal to or otherwise distinctly associated with an individual subarea of a PUD which is to be developed in stages must be constructed at the same time as the other components of subdivision infrastructure shown on the final plat for that stage of the subdivision development. No building permits shall be issued and no utility connections shall be made for any building or structure on any lot outside the community open space until these improvements have been inspected and approved by the city.

(J). Plan changes.

Following approval of a PUD plan by city council, alterations to the plan are classified as either substantial or non-substantial amendments. Non-substantial amendments may be approved administratively by city staff. Substantial amendments must be considered by the planning and zoning commission and approved by city council following the same procedures as required for approval of an initial PUD plan, including payment of the appropriate fee. A substantial amendment is any of the following.

- (1) A change which would add a land use not previously approved as part of the PUD plan.
- (2) A change which would alter the land use in an area within 200 feet of a boundary of the PUD subdivision.
- (3) A change which would increase the overall density of the PUD by ten percent or more. However, in no case may the overall density of a PUD located inside the city limits exceed that permitted by the PUD zoning district.

- (4) A change which would reduce the total area to be dedicated as community open space, or which would alter the location of that area by ten percent or more.
- (5) Any other change which in the judgment of the city would significantly alter the general character or overall design of the subdivision.

(K) - Expiration of PUD plan.

An approved PUD plan shall lapse and be of no further force and effect if a final subdivision plat is not submitted for approval by the planning and zoning commission within three years of the date of approval of the PUD plan by city council. Upon application by the developer, the planning and zoning commission may grant one extension of this time limit of up to two years if the commission finds that the additional time is warranted. A developer's failure to initiate development by filing a final subdivision plat within the approved time period shall void the PUD plan, and no building permits shall be issued, and no utility connections shall be made until a new or revised PUD plan has been resubmitted and approved. In the case of a PUD subdivision which is divided into stages, each stage following the first stage to be developed must be initiated by the submission to the Community Development Director of a final subdivision plat for that stage, for approval by the planning and zoning commission and the city council, within 3 years of the date of approval by the city council of the final subdivision plat for the previous stage. Failure to initiate development of a second or later stage within this time period shall void the PUD plan with respect to the undeveloped stages, but development may continue in previously initiated stages.

(L). - Additional requirements for preliminary subdivision plat to be presented to the Planning and Zoning Commission.

In addition to the requirements for a preliminary subdivision plat which apply to a conventional subdivision, the preliminary plat of a planned unit development subdivision must contain or be accompanied by the following.

- (1) Clear delineation of the areas which are to be reserved for off-street parking and loading, and the ratios of parking spaces to square feet of floor area for each lot to be developed in a non-residential use, and a clear delineation of the areas which are to be reserved for

residential off-street parking and the number of parking spaces to be provided for each dwelling unit.

- (2) The location, type and height of all proposed fences, screening walls, and other screening devices intended to buffer one land use from another or to buffer the PUD subdivision from adjacent properties.
- (3) The location and character of all improvements to be made in community open space areas, including a general landscape plan for each area.
- (4) A draft of the legal instrument establishing the community association, as required by (E).
- (5) A draft multi-year budget for the community association, as required by (E).

(M). - Additional requirements for final subdivision plat to be presented to City Council.

In addition to the requirements for a final subdivision plat which apply to a conventional subdivision, the final plat of a planned unit development subdivision must contain or be accompanied by the following.

- (1) Clear delineation of the areas which are to be reserved for off-street parking and loading, and the ratios of parking spaces to square feet of floor area for each lot to be developed in a non-residential use, and a clear delineation of the areas which are to be reserved for residential off-street parking and the number of parking spaces to be provided for each dwelling unit.
- (2) The location, type and height of all proposed fences, screening walls, and other screening devices intended to buffer one land use from another or to buffer the PUD subdivision from adjacent properties.
- (3) The location and character of all improvements to be made in community open space areas, including a general landscape plan for each area.
- (4) A legal instrument establishing the community association, approved by the City Attorney, as required by Sec. (E).

- (5) A multi-year budget for the community association, approved by the city, as required by Sec. (E).
- (6) A bond or other financial guarantee of the full funding of the community association's reserve fund for repairs and maintenance of the common areas and facilities, as required by SEC. (E).
- (7) A maintenance agreement between the community association and the city for repair and maintenance of the common areas and facilities which are to be dedicated as community open space, as required by Sec. (E).