

CHAPTER 8

LAND AND BUILDING REGULATIONS

830. ZONING – PLANNED UNIT DEVELOPMENT 1 AND PLANNED UNIT DEVELOPMENT 2

Section 830.01. Primary Purpose - The City recognizes the unique qualities of two large parcels on the east side of the City. When these areas are allowed to be developed for residential use, the sites need protection and the benefit afforded by using creative design. This purpose section is therefore of the utmost importance since it provides the foundation for the district. No new development is to be allowed unless found to be consistent and compliant with this purpose section and all other provisions of the PUD district. This PUD district allows development in the two areas designated as PUD 1 and PUD 2 in the Comprehensive Plan 2000 – 2020 which:

- **RURAL CHARACTERISTICS** Maintains the rural characteristic of the area.
- **OPEN SPACE NATURAL FEATURES** Preserves open space and natural features, natural resources, wildlife habitat and requires development to blend with the environment. In this ordinance, preservation includes conservation, conservation includes preservation, and desirable restoration can be included as part of conservation and preservation.
- **HOUSING** Allows a diversity of detached single family housing in neighborhoods having innovative layouts.
- **AGRICULTURE** Allows some agricultural use of the property to remain.
- **COMMUNITY** Establishes a sense of community by providing common areas, community buildings, and links.
- **TRAILS** Provides user friendly trails which provide links within the neighborhood, and which link the neighborhood to common areas and adjacent parks.
- **CREATIVITY** Requires creativity in the design and development pattern and the public service system of roads and utilities to serve the development.
- **CONTROLS** Permits development which does not exceed the allowed number of units as stated in the Comprehensive Plan and includes development controls provided by PUD and zoning regulations, covenants, dedications and land transfers which guarantee protection and limit the use of preserved open space.

Section 830.02. Sub-Purpose PUD 1 – In addition to the Primary Purpose, the following purposes apply within the PUD 1 district.

- **RURAL QUALITY** Rural quality/characteristics are especially important in this area, creative use or reuse of parts of the farm shall be included.
- **ENVIRONMENT** A premium is placed on preserving the site’s sensitive environmental qualities including creeks, drainage ways, open water, wetlands, woodlands, slopes and topography.
 - **WOODS** - Preservation of the woodlands.
 - **UNDERSTORY PLANTS** - Preserve understory plants in the woods.
 - **SLOPE** - Preservation of the slopes and natural topography.
- **DEVELOPMENT PATTERN** A combination of a unique development pattern within a rural setting where views are protected.
- **BUILDINGS** Placement of buildings where the natural character is preserved, and locate and orient buildings to protect views, minimize hard surface, suppress garage impacts, and prevent building clutter by prohibiting or severely limiting accessory buildings.

Section 830.03. Sub-Purpose PUD 2 – In addition to the Primary Purpose, the following purposes apply within the PUD 2 district.

- **HOUSING** Establish some common areas and-allow a range of housing types.
- **LINKS-TRAILS** Link the village development to community trails and to Uptown Hamel and parks and trails.
- **WOODS AND TREE LINE** Respect and retain the woods and tree line and use them for views and natural amenity.
- **UNDERSTORY PLANTS** Preserve understory plants in the woods.
- **HOUSING UNITS** Require quality design and use creative techniques which: allow greater density in the east, minimize the impact of garages, minimize hard cover, and include dwellings with porches and similar spaces.
- **WETLAND** Preserve and improve the quality of the wetlands.

Section 830.04. Uses.

Within the PUD 1 and PUD 2 districts the following uses shall be allowed.

PUD 1

- (1) Single family dwellings
- (2) Community farm, community co-op farm, community garden
- (3) Public and private park, open space and trails
- (4) Community use structures.
- (5) Utility structures/uses – lift stations but not water towers or reservoirs
- (6) Specialty retail and service uses for the residents in a building having no more than 3,000 square feet of total floor area with no tenant space larger than 2,000 square feet. The maximum square footage counting all buildings shall not exceed 10,000 square feet of floor area.

PUD 2

- (1) Single family dwellings
- (2) Community farm, community co-op farm, community garden
- (3) Public and private park, open space and trails
- (4) Community use structures.
- (5) Utility structures/uses – lift stations but not water towers or reservoirs

Section 830.05. Total Units – Density. Within the PUD 1 and PUD 2 districts the following maximum number of dwelling units shall be allowed.

Subd. 1. PUD 1.

- (a) 120 sewer units.
- (b) Some bonus units, up to a maximum of 25 percent of the total units as designated in (a) above, may be allowed when the City finds that the PUD Development plan:
 - (i) exceeds the purpose and design and development standards set by this ordinance;
 - (ii) includes restoration of significant portion of a natural environment consistent with a previous natural condition on the property ;
 - (iii) preserves all environmentally sensitive areas;
 - (iv) is a superior plan which exceeds the City requirements;
 - (v) uses creativity in land development which includes desirable new planning techniques highly appropriate for this site and when consistent with the provisions of this district.

The degree to which the plan exceeds all the items listed above will be the basis for allowing a bonus, if granted. The City shall designate the amount of the increase allowed.

Subd. 2. PUD 2.

- (a) 40 sewer units
- (b) Some bonus units, up to a maximum of 25 percent of the total units as designated in (a) above, may be allowed, in the northern parcel, when the City finds that the PUD Development plan:
 - (i) exceeds the purpose and design and development standards set by this ordinance;
 - (ii) includes restoration of significant portion of a natural environment consistent with a previous natural condition on the property ;
 - (iii) preserves all environmentally sensitive areas;
 - (iv) is a superior plan which exceeds the City requirements;
 - (v) uses creativity in land development which includes desirable new planning techniques highly appropriate for this site and when consistent with the provisions of this district;

The degree to which the plan exceeds all the items listed above will be the basis for allowing a bonus, if granted. The City shall designate the amount of the increase allowed.

Section 830.06. Design and Development Standards. Design and development standards are established for this district to achieve a high standard of development by providing assurance that land uses, buildings and functions are compatible. Plans and proposed use of the property shall conform to the design and development standards prior to approval of the PUD Development Plan and before any building permit is approved. The applicant or owner shall supply data necessary to demonstrate such conformance.

Subd. 1. Design and Development Standards – All Uses.

- (a) **Conservation-Preservation** – Conservation and Preservation of the site must be achieved consistent with the General Preservation and Development Guide by designation of at least 50 percent of the area for park, public use and open space, through dedication in a plat, deed to the City, or through granting a perpetual easement to the City or to an agency acceptable to the City. Agencies the City will consider are Minnesota Land Trust, Minnesota Department of Natural Resources, or an agency acceptable to the City. Conservation and preservation includes desirable restoration.
- (b) **Grade Preserved** – Existing grades on the site are expected to be preserved. The maximum deviation is 3 feet to preserve the natural features, with a deviation less than 4 inches within the drip line of preserved trees. For the purposes of restoration or to achieve a desirable natural drainage pattern, grading to a depth greater than 3 feet will be permitted. This provision does not apply to excavation for footings or basements designed and constructed consistent with the approved grading plan.
- (c) **Natural Drainage** – The plan shall provide an open, natural drainage system, except for such portions where it can be shown that a natural system is unquestionably not feasible. The volume and speed of runoff shall be minimized. Flow shall be dispersed and directed in a manner which supports and enhances natural drainage and which can accomplish this objective without using NURP ponds.
- (d) **Linkage** – Conservation/Open space areas shall be linked and provide continuity with land adjacent to the PUD.
- (e) **Lots-Open Space** – The development pattern shall strive to achieve having at least 75% of the lots in the development abutting conservation, park, or open space areas.
- (f) **Wetland** – No dwelling, structure or swimming pool shall be located within 30 feet of a wetland.
- (g) **Public Streets** –
 - (i) shall be built in accordance to city approved engineering standards but with the width being considered separately. Thus, the width of the paved road shall be minimal, usually 22 to 28 feet except at major entrances.

- (ii) drainage shall be conducted into open space areas in a manner to minimize erosion and to achieve the high quality of the runoff.
 - (iii) shall be eligible for a special design to accommodate low volumes and low velocity flow or a flow which favors surface water objectives.
 - (iv) shall be designed to discourage through traffic on local streets. Loop streets are acceptable and are a preferred alternative to cul-de-sacs.
 - (v) shall be designed to include bermed and landscaped buffer strips, where appropriate on major roads, to reduce noise and adverse visual impacts on adjacent properties. (*A buffer strip is a raised landscaped area used to visually separate one area from another to shield or block view, noise, light impacts or other conditions.*)
- (i) **Private Roads** –
- (i) shall be built in accordance to city approved engineering standards but with the width being considered separately.
 - (ii) shall be designed to minimize impacts upon adjoining parcels. Buffer strips and landscaping may be required to minimize impact.
 - (iii) may have common sections serving two or more dwellings.
 - (iv) must be built to a seven-ton design, paved to a width of at least 24 feet. Upon completion of the private road, the applicant shall submit to the City a set of "as-built" plans, signed by a registered civil engineer.
 - (v) shall be regulated by covenants concerning maintenance and use filed against all benefiting properties.
 - (vi) shall have a street name sign posted at the point where the private driveway intersects the public right-of-way.
 - (vii) shall be subject to a private road agreement entered into between the developer and the City covering such matters as maintenance, repair, safety, emergency and service access, signage, lighting, addressing and similar provisions.
- (j) **Trees – Streets and Open Spaces** – Street trees and trees proposed in open spaces must include a variety of trees and provide for and be consistent with:
- (i) tree types in the protected wooded areas and elsewhere e.g. oak, maple and linden, but not invader trees;
 - (ii) conservation;
 - (iii) buffering;
 - (iv) site planning and PUD considerations.
- (i) **Tree Preservation** – The tree preservation requirements specified elsewhere in the city code shall be required.
- (l) **Understory Plants and Natural Habitat** – Understory plants and the natural habitat in the protected wooded areas must be preserved. However, some removal for trail construction and for other good cause may be allowed such as removal of non-native and invader species such as buckthorn.

- (m) **Impervious Coverage** – The maximum impervious surface coverage shall not exceed 40 percent of the lot area. Lot area in this subsection does not include any open water, wetland, public or private right of way, easements or any similar limitation on the use of the lot.
- (n) **Utilities** – All utilities shall be placed underground.
- (o) **Outdoor Lighting** – Allow no more than 0.3 FC of light at the property line, when measured at eye level and aimed at the light source.
 - (i) Landscape and Architectural Lighting – Provide lighting aimed directly at the area of focus. Minimize spill light by use of narrow distribution luminaires and control devices such as internal and external louvers, refractors, barn doors and glare shields.
 - (ii) Parking and Walkways – Provide cutoff type luminaires for parking areas and walkways with no more than 10 percent of light output above the horizontal plane through the light source.
- (p) **Association; Covenants** - A neighborhood association may be required by the City. Bylaws and covenants shall be provided as required by this ordinance. The association and covenants shall provide for use, upkeep, maintenance and insurance for the common area and recreational facilities, private streets (including snow plowing, sweeping and resurfacing and associated lighting), monument sign and preservation of the open space. The association and covenants shall regulate outdoor sport structures, walls and fences, accessory structures, outdoor lighting, similar improvements in common areas or on private property.

Subd. 2. Design and Development Standards – Specific Uses.**(a) Single Family Dwellings.****(i) Setting.**

- (aa) Street Lighting. Lighting on public and any private roads shall be decorative and be consistent with the City's approved design. Such lighting shall meet the Illuminating Engineering Society of North America (IESNA) definition of cutoff and direct illumination with no more than 10% of the light output of the fixture aimed above 90 degrees above the horizontal (no more than 10% of the light output of the light fixture is allowed to be cast above a horizontal plane extending through the light source). Additionally the lighting level shall not exceed 0.3 FC at the edge of the property line when measured at eye level and aimed at the light source.
- (bb) (Reserved, deleted by Ordinance 410)
- (cc) Lanes for Fire Access. Lanes for fire access shall be provided as determined necessary.
- (dd) Drainage. Natural drainage shall be provided consistent with the City and watershed district requirements and proper easement shall be provided.
- (ee) Impervious Surface. The site plan shall show impervious surfaces, calculations and ratio. Such ratios shall meet the requirements of this ordinance.
- (ff) Buffers. Landscaped buffers shall be provided and established to protect and screen potential functional differences or use/density differences when significant.
- (gg) Maintenance of Common Areas. A maintenance agreement in a form acceptable to the City must be submitted to provide adequate and ongoing maintenance of the common areas and, if appropriate, public areas.
- (hh) Placement. Buildings shall be located consistent with the existing grades of the land and the location of trees, wetlands and other environmentally sensitive features which shall be protected.
- (ii) Diversity. Diversity shall be provided in terms of size, type, building orientation and form.
- (jj) Easements. Easements shall be provided and filed consistent with the plan and City approvals.

ii. Dwelling Unit and Lot.

- (aa) Setbacks. The minimum front yard setback is 30 feet. The minimum rear yard setback is 30 feet, except where lot abuts open space, then 20 feet. The minimum side yard setback is 10 feet, except as specified in (bb) below. Some flexibility in other setbacks as required in the conventional section of this ordinance will be allowed. Proposed setbacks shall be shown on the Concept Plan and on the Development Plan.
- (bb) Height. No building or structure shall exceed 2-1/2 stories or 30 feet in height. However, the height may exceed 30 feet, but shall not exceed 40 feet or 2-1/2 stories, if the following standards are met: 1) accurate building plans and elevation drawings shall be submitted to the City; 2) the residence shall be constructed with each side yard setback having at least a width of 30 feet; 3) those portions of the residence greater than 30 feet in height shall be uninhabited and not planned for storage; 4) the height from the lowest ground level (and 8 feet out) to the eave shall be no greater than 30 feet; and 5) there shall be a 2 story height limitation at the driveway or point of access to the residence. Side yard setbacks may be reduced to 20 feet if the portion of the residence greater than 30 feet in height is separated from the living space by a one-hour fire rated ceiling in the upper level of the living space consisting, at a minimum, of a one-hour fire rated attic access and a ceiling composed of two sheets of 5/8 inch gypsum board. Side yard setbacks may be reduced to 10 feet if the structure is sprinkled to a 13D standard according to the National Fire Protection Association.
- (cc) Modulation, Length. Dwelling units shall be modulated to provide interest and individuality for each dwelling.
- (dd) Front Façade. The space behind at least one-half of the front facade (measured in lineal feet at the grade level) of each dwelling shall be used for living space and/or entrance functions.
- (ee) Garage. No more than one-half of the front facade (measured in lineal feet) of each dwelling shall be used for garage purposes.
- (ff) Appearance. The exterior design, proportions and materials shall be selected to achieve quality design and a sense of individuality.
- (gg) Limit on Surfacing in Front Yard. Driveways and surfaces for outdoor parking shall not occupy more than 30 percent of the front yard. All areas in the front yard which are not hard surface (bituminous, concrete, concrete pavers, etc) shall be landscaped. No vehicles, boats or trailers shall be parked on the landscaped areas in the front yards.

- (hh) Outside Storage of Special Vehicles. There shall be no outside storage of special vehicles including recreational vehicles, motor homes, boats, jet skis, snowmobiles, trailers, and all terrain vehicles. (It is expected that private covenants will limit temporary parking to a maximum of 48 hours).
 - (ii) Outside Storage of Trash. There shall be no outside storage of trash, trash containers or debris. All trash containers shall be stored in enclosed structures.
 - (jj) Parking and driveway. At least two inside parking spaces shall be provided per dwelling. The width of the driveway shall not exceed 24 feet at the edge of the road, nor shall two driveways be combined, creating a width of more than 24 feet at the edge of the road. Adjacent driveways shall be separated by a landscaped area at least twenty feet wide. No more than 40 feet of every 100 feet of public or private street serving the dwellings shall be used as access or driveways to the dwellings, except at a public or private cul-de-sac, where some adjustment may be allowed. Driveway grades shall accommodate use by people and vehicles during all seasons. In general, grades shall not exceed seven percent. All driveways must be bituminous, brick, concrete or concrete pavers.
 - (kk) Driveway Design. Driveways shall be designed to minimize the volume and velocity of runoff, especially to the paved public or private road.
 - (ll) Access. Each dwelling shall have direct vehicle access from the garage and driveway to a public road or to an improved private road meeting the requirements of the City.
 - (mm) Guest parking. Off-street parking areas for guests must be considered, planned and provided for each dwelling.
 - (nn) Equipment. All mechanical equipment shall be hidden from view.
 - (oo) Accessory Structures. If approved by the City, accessory structures shall be designed to match the architecture and materials used in the dwellings and comply with the City accessory structure ordinance.
- (b) **Essential Public Utility and Service Structures Not Approved as Part of a Subdivision.** To the extent appropriate and possible the site and building shall meet the standards for a single family dwelling.

- (c) **Swimming Pool.** Swimming pools shall meet the requirements specified elsewhere in the City Code.
- (d) **Community Farm, Community Co-op Farm, Community Garden.** These uses and structures shall be designed and operated to be compatible with adjacent nearby residential uses.
- (e) **Community Use Structures.** These uses and structures shall be designed and operated to be compatible with adjacent and nearby residential uses.
- (f) **Specialty Retail and Service Uses.** To the extent appropriate and possible the site and building shall be designed to meet the standards for a single family dwelling.

Section 830.07. General Preservation and Development Guide.

In general, regulations governing PUD 1 and PUD 2 consist of all the provisions in this ordinance and a graphic representation hereafter referred to as the General Preservation and Development Guide prepared for the purpose of illustrating how the provisions can be applied to the properties so designated as PUD 1 and PUD 2.

These General Preservation and Development Guide were prepared after analysis of the sites and careful application of the PUD provisions required to be used in development of a PUD Concept Plan. The General Preservation and Development Guides for PUD 1 and PUD 2 are hereby made a part of this ordinance to provide guidance in preparing plans for these PUDs.

Owners or developers interested in developing the properties so designated are invited to use these guides. The City will make the guides available. Proponents for developing the sites and changing the zoning to PUD 1 or PUD 2 may find a basis for deviating some from the guide. In such instance, a written explanation/rationale for the deviation shall be submitted for review by the City.

General Development Guide - PUD #1

General Development Guide PUD #2

Section 830.08. Applications and Review Process

Subd. 1. Pre-Application - The applicant shall meet with the City Staff for a pre-application conference. This conference is intended to allow both the applicant and staff the opportunity to review land use controls - including PUD provisions, the approved General Preservation and Development Guide, subdivision requirements, and other codes or policies relevant to land use on the property.

Subd. 2. Concept Plan.

- (a) **Application** - A completed and signed application, a Concept Plan, and a list of all property owners located within 1500 feet of the property shall be submitted. A written description of the Concept Plan and its rationale shall be included. If the Concept Plan is not consistent with the General Preservation and Development Guide adopted by the City, a written explanation/rationale justifying the deviation must be submitted for review and accepted by the City.
- (b) **Concept Plan Requirements** - The application for Concept Plan approval must contain all the elements included in the General Preservation and Development Guide including any additional items listed below.
- (i) Property description, acreage, identification of owner and developer;
 - (ii) Preliminary grading plan, with contours at 2-foot intervals, showing areas to be cut, filled and preserved;
 - (iii) Existing contours and areas of proposed grade changes greater than 3 feet.
 - (iv) Existing natural features, topography to include existing contours at two-foot intervals;
 - (v) Soils, existing vegetative cover, waters, streams, marshes and wetlands, protected wetlands and classifications, and their implications on development;
 - (vi) Existing conditions within 600 feet, all property ownership located within 150 feet, existing land use, transportation facilities, zoning, and utilities;
 - (vii) Tree Preservation Plan;
 - (viii) Number of dwelling units;
 - (ix) All proposed lots and public and private streets;
 - (x) Natural drainage plan elements including creeks and appropriate extension of creeks, wetlands, and ponds;
 - (xi) A table of all uses (water, wetland, preserved public and private park and open space, wooded areas preserved, community center, roads, and dwellings) including acres and percent. Show net and gross density;
 - (xii) Preliminary utility plan;
 - (xiii) Staging and timing of the development;
 - (xiv) Written information describing proposed land use objectives, assumptions and rationale for the proposed development; and
 - (xv) Any additional data requested by the City.

(c) **Review by Planning Commission**

- (i) Purpose - The purpose of the meeting is to allow the Planning Commission and public the opportunity to become aware of the proposal, to obtain initial comments and for the Planning Commission to make findings.
- (ii) Planning Commission Holds Meeting - The Planning Commission shall hold at least one meeting to consider the Concept Plan. Property owners within 1500 feet of the outside boundary of the property shall be notified using the list provided by the applicant. The City may include a larger area for notification. Failure of any property owner to receive notice shall not invalidate the proceedings.
- (iii) Findings - The Planning Commission shall make findings as follows and forward its findings to the City Council based on and including, but not limited to, the following:
 - (aa) Consistency with the General Preservation and Development Guide with allowance for some variation with justification;
 - (bb) The plan includes conservation and preservation consistent with the General Preservation and Development Guide and provides sufficient usable open space and evidences preservation of natural features.
 - (cc) The plan is in harmony with the general purposes and intent of the Zoning Ordinance and this district; and
 - (dd) The plan provides for and is in keeping with the promotion of the public health, safety, and general welfare of the City or its citizens.

(d) **Review by City Council.** The City Council shall review the Concept Plan based on findings of the Planning Commission and staff, the criteria listed above, and other relevant factors.

(e) **Implications of Actions.** The findings and comments of the Planning Commission and City Council address the consistency of the Concept Plan with the provisions of this district. The findings and comments of the Planning Commission and City Council shall be for guidance only and, if positive, shall not be considered binding upon the Planning Commission or City Council regarding consideration of the PUD Development Plan.

Subd. 3. PUD Development Plan. (The Zoning Change)

- (a) **Application** - Within one year of the City Council's review of the Concept Plan, the applicant shall file an application for the PUD Development Plan. Failure to submit within one year will require resubmittal of the Concept PUD along with any changes or any new rationale for such changes.

- (b) **PUD Development Plan Requirements** - The application for a PUD Development Plan approval shall consist of all of the following:
- (i) Site plan showing lot lines, building location, parking lots, parks and private/common open space, and recreational improvements.
 - (ii) Number of dwelling units.
 - (iii) Type and square footage of specific land uses.
 - (iv) Detailed street and utility (water, sewer) locations and sizes, and the location and provisions for gas, electric, fiber optics, telephone, other communications facilities and any other utilities. All utilities must be underground.
 - (v) Natural Drainage Plan elements including creeks and appropriate extension of creeks, wetlands, and ponds.
 - (vi) Grading and drainage plan, including location and size of pipes, if any, and water storage areas and building pad elevations (top of the foundation).
 - (vii) Preliminary generalized landscape plan showing existing woods, other vegetation, creeks, wetlands and other natural features to be retained.
 - (viii) Tree and Landscape Plan.
 - (ix) Generalized plan for uniform signs and decorative lighting of public and private streets and trails.
 - (x) Plan for timing and phasing of the development by geographical areas.
 - (xi) Covenants or other restrictions proposed for the regulation of the development, and by-laws of the homeowner's association.
 - (xii) Renderings or elevations of the front and sides of examples of buildings to be constructed.
 - (xiii) Community Buildings. Location, height, bulk, square footage, general floor plans and elevation plans for each building.
- (c) **Public Hearing** - The Planning Commission shall hold a public hearing on the PUD Development Plan and the requested zoning change. Property owners within 1500 feet of the property in question shall be notified, although, failure of any property owner to receive notice shall not invalidate the proceedings. Notification shall be by mail using the list provided by the applicant and may include a larger geographic area. Legal notice of the Public Hearing will also appear in the City's official newspaper.
- (d) **Findings** - In addition to the findings listed under the Concept Plan, the following findings shall also be made by the Planning Commission and City Council:
- (i) Consistency with protection of the natural environment;
 - (ii) Compatibility of the proposed plan with this district, the General Preservation and Development Guide the Concept Plan, and the goals and policies of the Comprehensive Plan;
 - (iii) Effect of the proposed plan on the neighborhood in which it is located;
 - (iv) Internal organization and adequacy of various uses, densities, circulation and community facilities, recreation areas, open spaces, screening and landscaping;

- (v) Consistency with all other relevant land use controls and other applicable provisions of the city code.
 - (vi) Such other factors, as the City deems relevant.
- (e) **Conditions** - The Planning Commission and City Council may attach such statements, provisions or conditions and make plan modifications as they shall determine necessary to better accomplish the purposes of this section.
- (f) **City Council Approval** -
- (i) 2/3 Vote - Approval of the PUD Development Plan and to change the zoning to PUD 1 or PUD 2 requires at least a 2/3 majority vote of the full City Council membership.
 - (ii) Approval Impact - Approval of a PUD Development Plan which includes a final site and building location plan shall signify approval of all plans necessary prior to application for a building permit, subject to conformance with any conditions on the approval and subject to other necessary approvals by the City or others.
 - (iii) Agreement - The zoning change shall not be valid or published until the City and Applicant have executed a development agreement and, if required, a final plat is prepared and approved. The development agreement will likely include: 1) acceptance and filing of covenants 2) filing of PUD documents with the county 3) construction and development plans for grading on the site 4) development and construction schedules 5) dedications 6) preservation of the open space and transfer of control 7) guarantees 8) inspection of work 9) maintenance 10) providing as-built plans to the city 11) warranties, "Penalties and terminations," and other such provisions as the City may determine to be necessary to fulfill the PUD requirement and the city code.
 - (iv) Additional Requirements - The approval and development agreement shall state requirements necessary, if any, before a building permit can be issued.
 - (v) Letter of Credit - The letter of credit shall be an unconditional sight draft. The PUD approval shall state provision for, and amount of, the letter of credit.
- (g) **Approval Implications** - Approval of the PUD Development Plan shall indicate approval of the previously listed items and, after approval of the PUD, nothing shall be constructed nor shall there be any new use of the property on the PUD site, except in conformance with the approved plans and this Section.
- (h) **Term of Approval** – Property zoned PUD 1 or PUD 2 may be changed to some other district when or if the owner does not develop or fulfill the terms of the development agreement and the project is not developed and the City determines it appropriate to change the zoning to some other district consistent with procedures for amending the zoning map.

(i) **Amendments -**

(i) Major Amendments - Major amendments to an approved PUD Development Plan may be approved by the City Council after review by the Planning Commission. The notification and public hearing procedure for such amendment shall be the same as for approval of the original PUD. A major amendment is any amendment which:

(aa) Substantially alters the location of lots, buildings, roads, community open space or park.

(bb) Increases or decreases the number of residential dwelling units.

(cc) Increases the gross floor area of non-residential buildings by more than five percent.

(dd) Decreases the amount of open space or areas designated as preservation or conservation by more than five percent or alters it in such a way as to change its original design or intended use.

(ee) Creates non-compliance with any special condition attached to the approval of the development plan.

A Major Amendment may require submittal and review of a new Concept Plan.

(ii) Minor Amendments - A minor amendment is any amendment, which is not a major amendment. Any minor amendment may be made through review and approval by a simple majority vote of the City Council with or without referral to the Planning Commission.

Subd. 4. Building and Construction Plans

(a) **Submittal to Staff** - Building and Construction Plans (final site and building plans) shall be submitted to the City Staff for review for consistency with the PUD Development Plan and for approval.

(b) **Approval** - Approval of Building and Construction Plans for the entire PUD or for specific parts of the PUD shall be subject to the procedures outlined in this ordinance and in the Building Code. Then Building and Construction Plan shall contain information as required by the City, including the following:

(i) Detailed utility, street, grading and drainage plans;

(ii) Detailed building elevations and floor plans, except single family detached houses;

(iii) Detailed landscaping plan, sign plan, and lighting plan; and

(iv) Detailed Tree Plan, if applicable.

- (c) **Compliance** - The Building and Construction Plans shall be in substantial compliance with the approved PUD Development Plans. Substantial compliance shall mean:
- (i) Buildings, parking areas and roads are in substantially the same location as previously approved;
 - (ii) The number of residential dwellings has not increased or decreased from that approved in the development plan and complies with minimum lot size;
 - (iii) The floor area of non-residential uses has not been increased by more than five percent.
 - (iv) Open space has not been decreased or altered to change its original design or intended use;
 - (v) All special conditions required in the PUD Development Plan by the City have been incorporated into the final site and building plan.
- (d) **Approval Implication** - Approval of a final site and building plan shall signify approval of all plans necessary prior to application for a building permit, subject to conformance with any conditions the approval and subject to other necessary approvals by the City.

Section 830.09. Land Use Controls.

Upon approval for a PUD 1 or PUD 2 district designation, development on such property is regulated by the following City land use controls:

Subd. 1. PUD Controls

- (a) PUD 1 or PUD 2 district provisions, whichever one is applicable;
- (b) General Preservation and Development Guide;
- (c) PUD Concept Plan;
- (d) PUD Development Plan;
- (e) PUD development agreement.

Subd. 2. Subdivision Controls

- (a) Building and Construction Plans;
- (b) Subdivision Regulations;
- (c) Preliminary plat until superseded by a final plat;
- (d) Final plat of the property;
- (e) Subdivision agreement if separate;

Subd. 3. Other Controls

- (a) Other codes or City regulations applicable to the development, use and maintenance of the property including for example erosion control, and covenants in which the City is a third party;
- (b) Deeds to lands which are to be preserved and deeded to the city or an agency acceptable to the City.

- (c) In addition, development, use and maintenance of the property is also controlled by regulations and statutes of other public agencies having jurisdiction (e.g. watershed districts), deed restrictions, homeowners associations, covenants and similar contracts.

Transfer of Ownership

Transfer of ownership does not change or invalidate any of the land use controls, except as may be governed by the development agreement.

Amendment History of this Section

Adopted May 16, 2000 (Ord. 317).

Amended January 15, 2002 (Ord. 348).. Section 830.06 Subd. 2. Clause (a), Sub-clause (ii), parts (aa) and (bb) were amended regarding Setback and height restrictions in the PUD.

Amended August 2, 2006 (Ord. 409). Amended clause k of subd. 1 of subsection 830.06 regarding tree preservation.

Amended August 2, 2006 (Ord. 410). Deleted part (bb) of subclause (i), clause (a), subd. 2 of subsection 830.06 regarding monument signs in PUD 1 & PUD 2.