
1105.03 PRELIMINARY PLAT APPROVAL.

- (a) When a preliminary plat complying with all applicable requirements of the Planning and Zoning Code contains all information required under Section 1105.02 ~~and is accepted by the Planning and Zoning Administrator or their designee~~, the application for preliminary plan approval with staff comments and administration recommendations shall be forwarded ~~within thirty days of acceptance~~ by the Planning and Zoning Administrator or their designee to the Planning Commission for action. Upon forwarding the application to the Planning Commission, the preliminary plat and supplemental materials pertaining thereto shall be considered a matter of public record.
- (b) An application for preliminary plat approval which would result in one or more lots, parcels or public ways being in noncompliance with the Planning and Zoning Code shall not be forwarded by the Planning and Zoning Administrator or their designee for consideration by the Planning Commission until final determination has been made on all required variances under the procedures established in Chapter 1103 or 1131. Nothing in this section shall preclude a variance application from being filed and considered in conjunction with a preliminary plat.
- (c) The Planning Commission shall hold a public hearing on an application for preliminary plat approval within thirty days of the receipt of the application, staff comments, and Council informal comments relative to park land dedication and administration recommendations from the Planning and Zoning Administrator or their designee.
- (d) Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application at which time the applicant shall present and explain the design concept of the proposed development; staff comments and administrative comments shall be made public; and the Planning Commission shall receive any comments or concerns pertaining to the proposed development from the general public. Notice of such public hearing shall ~~be published on the City website and posted at the municipal building, in a location accessible to the public, and shall~~ include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ twice during the two weeks prior to the public hearing.

Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

- (e) Drawings and related written material which fully describe the design concept and platting of the proposed development shall be filed by the applicant with the Planning and Zoning Administrator or their designee and the Clerk of Council prior to publication of the first notice of public hearing and shall be available for review and study by the general public until the time of such public hearing.
- (f) After action by the Planning Commission on the application, the Clerk of Council shall mail to the applicant a Record of Action taken which shall contain the motion as carried by the Planning Commission to include any conditions. A copy of the Record of Action shall be forwarded to the Planning and Zoning Administrator or their designee, the City Engineer, and the Director of Development.
- (g) Any approval of a preliminary plat shall be valid for a period of twelve months. An extension of time may be permitted by vote of Planning Commission for good cause shown.

(Ord. 0147-2011. Passed 8-1-11; Ord. No. 0017-2017 , Exh. A, 4-3-17)

1108.04 ACTION BY THE PLANNING COMMISSION.

- (a) When a Final Development Plan complying with all applicable requirements of the Planning and Zoning Code contains all information required under Section 1108.03 ~~and is accepted by the Planning and Zoning Administrator or their designee~~, the application for Final Development Plan approval with staff comments and administration recommendations shall be forwarded ~~within 30 days of acceptance~~ by the Planning and Zoning Administrator or their designee to the Planning Commission for action. Upon forwarding the application to the Planning Commission, the Final Development Plan and supplemental materials pertaining thereto shall be considered a matter of public record.
- (b) An application for Final Development Plan approval which is not in compliance with the Planning and Zoning Code shall not be forwarded by the Planning and Zoning Administrator or their designee for consideration by the Planning Commission until final determination has been made on all required variances under the procedures established in Chapter 1103 or 1131.
- (c) The Planning Commission shall hold a public hearing on an application for Final Development Plan approval within 30 days of the receipt of the application, staff comments and administration recommendations from the Planning and Zoning Administrator or their designee.
- (d) Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application at which time the applicant shall present and explain the design concept of the proposed development; staff comments and administrative comments shall be made; and the Planning Commission shall receive any comments or concerns pertaining to the proposed development from the general public. Notice of such public hearing shall ~~be published on the City website and posted at the municipal building, in a location accessible to the public, and shall~~ include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ during the calendar week prior to the public hearing.

Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

- (e) Drawings and related written material which fully describe the design concept and platting of the proposed development shall be filed by the applicant with the Planning and Zoning Administrator or their designee prior to publication of the first notice of public hearing and shall be available for review and study by the general public until the time of such public hearing.

(Ord. 0147-2011. Passed 8-1-11; Ord. No. 0017-2017 , Exh. A, 4-3-17)

1131.03 PUBLIC HEARING ADVERTISEMENT.

Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application, notice of which shall ~~be published on the City website and posted at the municipal building, in a location accessible to the public, and shall~~ include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ during the calendar week prior to the public hearing. Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of said notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

(Ord. 0150-2011. Passed 8-1-11; Ord. No. 0017-2017 , Exh. A, 4-3-17)

1133.02 POSTING OF PROPERTY; PUBLICATION OF NOTICE.

Before considering the pending application, the Planning Commission shall hold at least one public hearing on such application, notice of which shall **be published on the City website and posted at the municipal building, in a location accessible to the public, and shall** include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ twice during the two weeks prior to the public hearing.

Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

The City shall be responsible for posting one rezoning sign on each public street frontage for the property or properties subject to the rezoning application. Sign(s) shall be posted a minimum of 14 days prior to the date of the Planning Commission meeting and shall remain in place until the conclusion of final City Council action. Zonings for properties annexed into the City shall not be required to be posted only if the proposed zoning is in accordance with Section 1133.08(a).

(Ord. 0151-2011. Passed 8-1-11.; Ord. No. 0017-2017 , Exh. A, 4-3-17; Ord. No. 120-2020 , § 1(Exh. A), 1-20-21)

1151.07 PUBLICATION OF NOTICE AND POSTING OF PROPERTY.

(a) Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application, notice of which shall **be published on the City website and posted at the municipal building, in a location accessible to the public, and shall** include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ twice during the two weeks prior to the public hearing.

Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

(b) Drawings and related written materials which fully describe the design concept and platting of the proposed planned district shall be filed by the applicant with the Planning and Zoning Administrator or their designee prior to publication of the first notice of public hearing and shall be available for review and study by the general public until the time of such public hearing.

(c) Not less than fourteen days prior to the scheduled date of public hearing, the Planning and Zoning Administrator or their designee shall cause the property in question to be posted with a zoning notice stating the time and place of the scheduled public hearing, the identity of the applicant, the present zoning of the property and the requested zoning.

1151.15 PLANNED UNIT DEVELOPMENT DISTRICTS.

- (a) *District Added to Zoning Ordinance.* The Planned Unit Development District is hereby added to the Zoning Ordinance to be known as PUD District, varied zoning for tracts containing not less than 25 acres.
- (b) *Definitions.*
- (1) For the purposes of this chapter, the definitions contained in Chapter 1123 are hereby adopted and have the same meaning and intent in this chapter, unless the definitions contained in the Zoning Ordinance are in conflict with the definitions contained in this chapter, in which case the definitions contained in this chapter shall prevail.
 - (2) *Planned Development* means a group of structures for residential, commercial or governmental use, or any combination thereof, to be designated for construction as a unified project on tracts of 25 acres or more, under an Outline Development Plan, which plan is to be approved as provided hereafter in this chapter.
 - (3) *PUD District* means a district or zone comprising 25 acres or more in which the uses stated in Section 1151.15 (c) will be permitted within a Planned Development.
 - (4) *Applicant* means the owner or owners, acting jointly, of land comprising 25 acres or more, proposed to be zoned or rezoned as a PUD District. For purposes of this chapter, "owner" means and includes any public agency or public corporation, any individual, corporation, partnership, trustee, fiduciary or association holding either legal or equitable title.
 - (5) *Cluster housing* means a group of single-family houses, either on a single lot or each on its own lot, either attached or detached, forming a permanent open space, court or cul-de-sac and not conforming to regular front, side or rear yard requirements as set forth in other chapters of the Zoning Ordinance. For standards, refer to Section 1151.15 (q).
 - (6) *Garden apartments* means attached one or two-story dwellings, arranged in groups of two or more units and joined by a common wall. Each unit shall contain some private outdoor space. For standards, refer to Section 1151.15(q).
 - (7) *Medium rise apartments* means three or four-story multiple-dwelling building units, containing efficiency, one bedroom, two bedroom or three bedroom apartment units. For standards, refer to Section 1151.15 (q).
 - (8) *Planning Commission* means the Planning Commission of the City of Gahanna.
- (c) *Permitted Uses.*
- (1) Within a PD District in which there are less than 50 acres, zoning or rezoning shall be permitted for the following uses only:
 - A. All uses permitted within an ER-1 District.
 - B. All uses permitted within an SF-I District.
 - C. All uses permitted within an SF-2 District.
 - D. All uses permitted within an SF-3 District.
 - E. All uses permitted within an R-4 District.
 - F. All uses as defined in Section 1151.15 (b)(5).

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- (2) Within a PUD District in which there are 50 acres or more, but less than 100 acres, zoning or rezoning shall be permitted for the following uses only:
- A. All uses permitted within an ER-1 District.
 - B. All uses permitted within an SF-1 District.
 - C. All uses permitted within an SF-2 District.
 - D. All uses permitted within an SF-3 District.
 - E. All uses permitted within an R-4 District.
 - F. All uses permitted within an MFRD District.
 - G. All uses as defined in Section 1151.15 (b)(5) and (6).
- (3) Within a PUD District in which there are 100 acres or more, zoning or rezoning shall be permitted for the following uses only:
- A. All uses permitted within an ER-1 District.
 - B. All uses permitted within an SF-1 District.
 - C. All uses permitted within an SF-2 District.
 - D. All uses permitted within an SF-3 District.
 - E. All uses permitted within an R-4 District.
 - F. All uses permitted within an MFRD District.
 - G. All uses permitted within an SO District.
 - H. All uses permitted within an NC District.
 - I. All uses permitted within a CC District.
 - J. All uses permitted within a CC-2 District.
 - K. All uses permitted within a CS District.
 - L. All uses permitted within a PCC District.
 - M. All uses as defined in 1151.15 (b)(5) through (7).
- (4) The uses permitted in the districts referred to herein are the same as those delineated and set forth in the Zoning Ordinance.
- (5) Other uses within a PUD District may be permitted, upon approval of the Planning Commission and Council. However, the procedures set forth in Section 1151.15 (e) must be followed.
- (d) *Conditional Uses.* The same uses as specified in the SF-1 District, subject to Planning Commission approval are permitted in a Planned Unit Development District.
- (e) *Procedure.*
- (1) *Application.* The applicant shall submit to the Planning Commission, on forms provided by the Planning Commission, an application signed by the owner or owners of the tract or tracts of land in question, in accordance with Section 1133.01, requesting that such tract or tracts (in the case of owners acting jointly) be zoned or rezoned to PUD District zoning.
 - (2) *Papers and Documents to Accompany Application.* The application defined in subsection (e)(1) hereof shall be accompanied by three copies of an Outline Development Plan and a map or other drawing of

the entire area for which such PUD District zoning or rezoning is requested. The Outline Development Plan shall include in text and map or drawing form, the following:

- A. The proposed location and size of areas of residential use, commercial use and all other uses requested within the PUD District, and shall include the character and approximate density of dwellings, and all requirements of Section 1151.15(f)(l) through (3).
 - B. The proposed size, locations and uses of the areas reserved as open areas, parks, playgrounds, school sites and other public areas and spaces, with the suggested use and ownership of such areas and spaces.
 - C. The proposed traffic circulation patterns, including public and private streets and other accessways, indicating their relationship to existing streets.
 - D. The proposed schedule of site development, including information indicating design principles and concepts to be followed in land development.
 - E. Such other pertinent information as the Planning Commission shall prescribe resulting from preliminary conferences concerning such requested zoning or rezoning.
 - F. An accurate survey of the entire tract, which survey shall have been performed and certified by a registered surveyor.
 - G. Fees as required in Section 1151.15(o)(1).
- (3) In addition, such application shall also be accompanied by a "Feasibility Study" encompassing, but not limited to, general topographic studies, drainage, access points adjoining land use, utilities and their availability and accessibility, approval of the general Plan by the City engineers and other interested City departments and any and all other matters indicating and tending to prove that the Outline Development Plan as submitted, can be carried to its conclusion, within the limits of this chapter.
- (4) The Planning Commission may take no action whatsoever until such time as all required papers and documents are submitted to it, with the application and fee therefor.
- (5) All plans, papers, documents, maps, studies and fees required to be submitted with the application, and the application itself, shall become the property of the City and will not be returned to the applicant, except as otherwise provided in this chapter.
- (f) *Planning Commission Action.* Upon the submission of the application, required papers, maps and documents accompanying the same and the fee to the Planning and Zoning Administrator or their designee, the Planning Commission shall, at its next regularly scheduled meeting, schedule a public hearing on such application and Outline Development Plan, such hearing to be held not later than 60 days after the date that it is scheduled. At such hearing, the applicant or his representative shall present a statement and adequate and sufficient evidence in such form as the Planning Commission may require, to aid the Planning Commission in its deliberation on the application and the Outline Development Plan. Before approving an application for zoning or rezoning to a PUD District, the Planning Commission shall decide:
- (1) That the proposed development is consistent in all respects with the purpose, intent and applicable standards of this chapter, and the general zoning, building, subdivision and other pertinent ordinances of the City.
 - (2) That the proposed development is in conformity with a comprehensive Plan, or portion thereof, as the same may apply to the tract in question.
 - (3) That the proposed development is not detrimental to the general welfare of the inhabitants of the City.
 - (4) That the benefits, improved arrangement and the general design of the proposed development justify the deviation from other districts, as included in the Zoning Ordinance.

(g) *Publication of Notice and Posting of Property.*

- (1) Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application, notice of which shall be published on the City website and posted at the municipal building, in a location accessible to the public, and shall include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ twice during the two weeks prior to the public hearing.

Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

- (2) Drawings and related written materials which fully describe the design concept and platting of the proposed planned unit development shall be filed by the applicant with the Planning and Zoning Administrator or their designee prior to publication of the first notice of public hearing and shall be available for review and study by the general public until the time of such public hearing.
- (3) Not less than 14 days prior to the scheduled date of public hearing, the Planning and Zoning Administrator or their designee shall cause the property in question to be posted with a zoning notice stating the time and place of the scheduled public hearing, the identity of the applicant, the present zoning of the property and the requested zoning.

(h) *Council Action.*

- (1) Within 45 days after the public hearing, the Planning Commission shall forward the application and supporting matter, including the Outline Development Plan to Council, along with a written report recommending that the application and Outline Development Plan be approved, approved with modifications or disapproved. The report shall contain the findings of the Planning Commission as to conformity to criteria set forth in 1151.15(e)(2) and the reasons for whatever recommendation is made to Council by the Planning Commission. In the event that the Planning Commission fails to forward its report within 45 days after the public hearing, such failure shall be deemed to be an approval of the application and the Outline Development Plan, and it shall be forwarded automatically to Council as if it had been approved by the Planning Commission.
- (2) At the next regularly scheduled Council meeting, the President of Council shall schedule a public hearing upon the application and Outline Development Plan, as submitted to Council by the Planning Commission. Not less than 30 days prior to the date scheduled for the public hearing by Council, the Clerk of Council shall cause notice of such hearing to be given in accordance with the Zoning Ordinance and the provisions of Article XI of the Charter.
- (3) In the event the application and Outline Development Plan is approved by Council, Council shall cause the Zoning Map to be amended by ordinance to reflect the change to the PUD District. If the application and Outline Development Plan is approved with modifications by Council, Council shall not amend the Zoning Map until the applicant has filed with Council a written consent to the plan as modified. Such written consent must be filed with the Clerk of Council within 60 days after Council's action upon the application and Outline Development Plan. In the event such a written consent is not filed within 60 days, such failure shall be deemed a refusal to consent to the modifications and the application and Outline Development Plan shall be conclusively presumed to have been denied by Council. In the event such written consent to the application and Outline Development Plan as modified is filed, Council shall then cause the Zoning Map to be changed by ordinance to reflect the PUD District.

(i) *Effect of Approval of Application, Outline Development Plan.*

- (1) Within two years after the approval of the application to amend the Zoning Map by Council, the applicant shall be required to submit a plat of the PUD District or a partial plat of the PUD District, to contain not less than 25 acres, but if the entire PUD District so applied for, is more than 50 acres, not less than 50 acres may be submitted as a plat, unless the entire balance of the PUD District is less than fifty acres, in which case the entire balance shall be submitted. Such plat is to be submitted in accordance with all the applicable laws, ordinances and regulations of the City.
- (2) In the event that a partial plat is submitted and recorded within the two-year period the approval of the PUD District shall be continued so long as a plat containing not less than 50 acres within the PUD District is submitted (unless the entire remainder of the PUD District consists of less than 50 acres, in which case the entire remainder of such PUD District must be submitted as a plat) and recorded within a two-year period from the time of the last recording of the plat or partial plat. In the event that a plat, partial plat or a subsequent partial plat is not submitted and recorded within the above time limits, the approval of the PUD District shall be automatically voided, without action by Council, and the land shall revert to its last previous zoning district. However, Council may, in its discretion and for good cause shown by the applicant, grant a time extension, not to exceed six months in length, for the submission and recording of a subsequent plat or partial plat.

(j) *Plat and Development Plan.* No building or construction may be commenced within any PUD District after approval, until the Plat and Development Plan has been approved by the Planning Commission under the following procedures:

The applicant shall file with the Planning Commission, within the acreage limits and the time limits set forth in Section 1151.15(i), a Plat and Development Plan containing, in final form, the following information with respect to that area to be platted and developed:

- (1) A map showing street systems, plot lines and plot designs, all of which must be in conformity with the requirements of the Subdivision Ordinance (Title One of this Part Eleven -Planning and Zoning Code) and amendments thereto.
- (2) Areas proposed to be conveyed, dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings and other similar public and semipublic places.
- (3) A development schedule indicating the approximate date when development of the project can be expected to begin; the stages in which the project will be developed and the approximate date when development of each stage can be expected to begin; the anticipated rate of development, the approximate dates when each of the stages of the development will be completed, and the area location of common open space that will be provided at each stage of the development.
- (4) Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned development and any of its common open areas.
- (5) Fees as required in Section 1151.15 (o)(2).

(k) *Submission of Plat, Development Plan; Planning Commission Action.* The Planning Commission shall, within 30 days after the submission of a Plat and Development Plan, give its written approval of such Plat and Development Plan so long as it is consistent and in conformity with the Outline Development Plan and the standards of this chapter. Such approval shall be granted by the Planning Commission so long as the Plat and Development Plan are in conformity with the Outline Development Plan, and shall not be withheld unless the Planning Commission deems that there is a substantial variation from the Outline Development Plan.

(l) *Variation From Outline Development Plan; Procedure.*

- (1) Should the Planning Commission, at any regular meeting or at any special meeting called for the purpose of considering the submission of a Plat and Development Plan, find that a substantial variation

exists between the Plat and Development Plan, as submitted, and the Outline Development Plan, the Chair of the Planning Commission shall forthwith notify the applicant that a substantial variation is deemed to exist and the particulars thereof. The applicant may, within 30 days of receipt of such notification, elect, either to amend the Plat and Development Plan to eliminate such substantial variation and resubmit such amended Plat and Development Plan without further fee, or to request the Chair of the Planning Commission to appoint a Fact-Finding Board, as hereinafter provided. Such election of the applicant shall be in writing to the Chair of the Planning Commission. Should the applicant fail to make such election within the time limit provided herein, the Plat and Development Plan shall be conclusively presumed to have been denied and no further action or appeal may be taken thereon.

- (2) Should the applicant elect to submit the dispute to a Fact-Finding Board, the Chair of the Planning Commission shall forthwith appoint two members of the Planning Commission to a Fact-Finding Board. Such Board shall be composed of two members of Council, the above-mentioned two members of the Planning Commission and one freeholder-elect of the City who has no direct or indirect financial interest in the matter. Such freeholder-elect shall be appointed by the Mayor, who shall attest to his qualifications, and the City Attorney. The Chair shall forthwith notify the President of Council that the Planning Commission deems that a substantial variation from the Outline Development Plan exists. The President of Council shall appoint two members of Council and shall designate one of such members as the Chair of the Fact-Finding Board. The City Attorney shall have no vote on such Board and shall act in an advisory capacity.
- (3) The Fact-Finding Board shall meet within fifteen days after the appointment of the Chair thereof. The applicant shall be notified of such meeting and shall be present to submit detailed information concerning the reasons for the variation as found by the Planning Commission. The Board shall report its findings, in writing, within 20 days after the appointment of the Chair thereof, to the Chair of the Planning Commission. Should the Board fail to meet within the fifteen-day time limit set forth herein or should the Board fail to notify the Chair of the Planning Commission of its findings within the 20-day period set forth herein, such failure shall be construed as a positive recommendation to the Planning Commission that the variation as found by the Planning Commission is justified as being due to unforeseeable or changed circumstances and not due to the negligence of the applicant. Should the applicant fail to appear, after proper notification of the Board meeting, to present his reasons, either in person or through his representative as to the reason for the variation, such failure shall be conclusively presumed to be a withdrawal by the applicant of the Plat and Development Plan from consideration by the Planning Commission, and the submission of such Plat and Development Plan shall be considered void and of no effect and does not toll the time limits set forth in 1151.15 (i) for the submission of Plat and Development Plans.
- (4) After submission of the information to the Board by the applicant, such Board shall determine only:
 - A. Whether the substantial variation from the Outline Development Plan, as found by the Planning Commission, is justified by circumstances which have changed since the original submission of the Outline Development Plan and which could not have reasonably been foreseen by the applicant at the time of, or prior to the submission of the Outline Development Plan, and that the variation, as found is in no way due to the negligence or lack of diligence on the part of the applicant; or
 - B. The variation is unjustified and could have been foreseen by the applicant by the use of reasonable diligence at the time of, or prior to the submission of the Outline Development Plan.
- (5) At its next regular meeting or at a special meeting called for such purpose, after receipt of the recommendation of the Fact-Finding Board, the Planning Commission shall act on the Plat and Development Plan as submitted by the applicant. The Planning Commission shall in no way be bound by the recommendation of the Fact-Finding Board, but if the recommendation of the Board is that the

variation is justified, and the Planning Commission disapproves such variation as being unjustified, such disapproval shall act to toll the time limits set forth in Section 1151.15(i), pending appeal by the applicant, as set forth in Section 1151.15(n).

- (m) *Procedure Upon Approval by Planning Commission.* In the event the Plat and Development Plan is approved by the Planning Commission, under the same criteria as defined in Section 1151.15(f), such Plat and Development Plan shall be submitted to Council for approval in the same manner and under the same procedure as that prescribed in the Subdivision Ordinance (Title One of this Part Eleven - Planning and Zoning Code) and amendments thereto.
- (n) *Procedure Upon Disapproval by Planning Commission.*
- (1) In the event that the Planning Commission has received the recommendation of a justifiable variation from the Fact-Finding Board as set forth in Section 1151.15(l), but the Planning Commission has disapproved such Plat and Development Plan, an appeal may be taken by the applicant to the Board of Zoning and Building Appeals in the form, manner and time set forth in Section 12.03 of the Charter. Should the Board of Zoning and Building Appeals find that the Planning Commission should have approved such Plat and Development Plan, in accordance with the recommendation of the Fact-Finding Board, the Plat and Development Plan shall be considered automatically approved by the Planning Commission and submitted to Council in the manner prescribed in Section 1151.15(m). Should the Board of Zoning and Building Appeals disapprove such Plat and Development Plan, the applicant shall be deemed to have exhausted his administrative remedies.
 - (2) In the event the Fact-Finding Board has recommended to the Planning Commission that the variation of the Plat and Development Plan from the Outline Development Plan is unjustified, and the Planning Commission has disapproved such Plat and Development Plan and an appeal has been taken to the Board of Zoning and Building Appeals under subsection (n)(1) hereof, and the Board of Zoning and Building Appeals has recommended approval of such Plat and Development Plan, then the City Attorney shall within 20 days of the date of the decision of the Board of Zoning and Building Appeals, file a written appeal to Council. Such appeal shall be set for hearing before Council at the next regular meeting to be held more than ten days after the mailing of the notice of appeal and shall be heard at that time, unless a written extension of time is granted to either party by the President of Council. A copy of the notice of appeal shall be sent to the applicant and to the Chair of the Board of Zoning and Building Appeals and at least five days' written notice shall be given to the applicant and the Chair of the Board of Zoning and Building Appeals of the date, time and place of the hearing. At such hearing before Council, the City Attorney shall represent the Chair of the Planning Commission or his appointed representative and the Board of Zoning Appeals may be represented by any member thereof. The applicant may represent himself or may appoint his representative. The findings and decision of Council shall be final.
 - (3) In the event the Fact-Finding Board has recommended to the Planning Commission that the variation of the Plat and Development Plan from the Outline Development Plan is unjustified, and the Planning Commission approves such Plat and Development Plan, the City Attorney shall, within 20 days of the date of the decision of the Planning Commission, file a written appeal to Council. Such appeal shall be set for hearing before Council at the next regular meeting to be held more than ten days after the mailing of the notice of appeal and shall be heard at that time unless a written extension of time is granted to any interested party by the President of Council. A copy of the notice of appeal shall be sent to the applicant and to the Chair of the Planning Commission, and, at least five days' written notice shall be given to the applicant and the Chair of the Planning Commission of the date, time and place of the hearing. The City Attorney shall represent the Chair of the Fact-Finding Board and the Planning Commission may be represented by any member thereof. The applicant shall represent himself or may appoint his representative. The findings and decision of Council shall be final and such appeal to

Council shall be deemed to have been a submission to Council under the Subdivision Ordinance (Title One of this Part Eleven-Planning and Zoning Code).

- (4) Nothing in this chapter shall be construed in such a way as to deprive any interested party aggrieved by the finding and decision of the Planning Commission, of his right to appeal to the Board of Zoning and Building Appeals in the manner and time set forth in Section 12.03 of the Charter. However, should the finding and decision of the Board of Zoning and Building Appeals be contrary to the position of such appellant, the appellant shall be deemed to have exhausted his administrative remedies and such decision of the Board of Zoning and Building Appeals shall be deemed to be final, except as provided in subsection (n)(2) hereof.

(o) *Fees.*

- (1) The fee for filing an Outline Development Plan and the application for PUD District shall be as established in the Building and Zoning Fee Schedule set forth in Section 135.10 in Part One of these Codified Ordinances.

The fee for filing an amended or revised Outline Development Plan and the application for PUD District shall be as established in the Building and Zoning Fee Schedule set forth in Section 135.10 in Part One of these Codified Ordinances.

The fee is to be submitted with the application and accompanying documents, as set forth in this chapter.

- (2) The fee for filing a Final Plat and Development Plan of fifty acres or less, shall be as established in the Building and Zoning Fee Schedule set forth in Section 135.10 in Part One of these Codified Ordinances.
- (3) The fee for filing an appeal to the Board of Zoning and Building Appeals shall be as established in Section 147.04, fees, of Chapter 147, Board of Zoning and Building Appeals, of these Codified Ordinances, except where such appeal may be filed by the administrative agencies or officials of the City, on behalf of the City.

(p) *Conformity with Subdivision Ordinance.*

- (1) All submissions of Plat and Development Plans, as provided in this chapter, shall conform in all respects with the Subdivision Ordinance (Ordinance 50-61, passed November 20, 1961) and amendments thereto, except for Sections 1151.15 (b) and 1151.15(c). However, those parts of Section 1105.02 which are required in Section 1151.15 (c)(2) shall be required.
- (2) The City Engineer shall be the sole judge as to the conformity of the Plat and Development Plan with such Subdivision Ordinance.

(q) *Development Standards.* The following standards for the arrangement and development of land and buildings are required in the PUD District:

- (1) *Intensity of Use.* The maximum net density for single-family residential units shall not exceed four dwelling units per acre. The maximum net density for cluster housing units shall not exceed eight dwelling units per acre. The maximum net density for garden apartment units shall not exceed 15 dwelling units per acre. The maximum net density for medium-rise apartment units shall not exceed 30 dwelling units per acre. The maximum overall density within the PUD District may not exceed four dwelling units per acre. The calculation of net density shall include all acreage within the PUD District, except that acreage to be used for school, government and commercial purposes, which shall be specifically excluded in arriving at the net density.
- (2) *Minimum Standards Per Dwelling Unit.*

Single- Family - A

Lot area per unit	10,000 to 14,999 square feet
Maximum lot coverage by buildings	30 percent
Minimum setback	25 feet
Minimum side yard	10 percent of total lot width
Minimum rear yard	10 feet
Maximum height	2-story
◆Garage - minimum	2 per unit
Minimum off-street parking spaces	2 per unit
Minimum floor area - one-story	1,200 square feet
Minimum ground floor area - more than one-story	1,000 square feet
*Minimum total floor area multi-story	1,800 square feet
Minimum floor area above finish grade	1,000 square feet
*(A building constructed with a portion of the living area being below the finish grade level and one or more stories at or above the finish grade level.)	
(Total floor area is exclusive of cellars, open porches and garages.)	

Single- Family - B	
Lot area per unit	15,000 to 19,999 square feet
Maximum lot coverage by buildings	30 percent
Minimum setback	30 feet
Minimum side yard	10 percent of total lot width
Minimum rear yard	10 feet
Maximum height	2-story
◆Garage - minimum	2 per unit
Minimum off-street parking spaces	2 per unit
Minimum floor area -one-story	1,800 square feet
Minimum ground floor area -more than one-story	1,200 square feet
*Minimum total floor area multi-story	1,900 square feet
Minimum floor area above finish grade	1,100 square feet
*(A building constructed with a portion of the living area being below the finish grade level and one or more stories at or above the finish grade level.)	

Single-Family - C	
Lot area per unit	20,000 square feet and over
Maximum lot coverage by buildings	30 percent
Minimum setback	35 feet
Minimum side yard	10 percent of total lot width
Minimum rear yard	10 feet
Maximum height	2 1/2 story
◆Garage - minimum	2 per unit
Minimum off-street parking spaces	2 per unit
Minimum floor area - one-story	2,000 square feet
Minimum ground floor area - more than one-story	1,400 square feet
*Minimum total area multi-story	2,000 square feet

Minimum floor area above finish grade	1,200 square feet
*(A building constructed with a portion of the living area being below the finish grade level and one or more stories at or above the finish grade level.)	

Cluster Housing	
Minimum lot area per unit	5,800 square feet
Maximum lot coverage by buildings	27.5 percent
**Minimum setback	**
**Minimum side yard	**
**Minimum rear yard	**
Maximum height	2 story
Garage - minimum	1 per family unit
Minimum off-street parking spaces	2 per family unit
Minimum ground floor area	1,000 square feet

Cluster Housing Detached	
Minimum lot area per unit	7,000 square feet
Minimum lot size	3,500 square feet
Maximum lot coverage	40 percent
Minimum setback	To existing PUD
Minimum side yard	Sum of the two side yards to equal ten feet
Maximum height	2 story
Garage minimum	1 per family unit
Minimum off-street parking	2 spaces per family unit
Minimum ground floor area	1 story: 1,000 square feet
Minimum ground floor area	2 story: 550 square feet

Cluster Housing Attached	
Minimum lot area per unit	5,800 square feet
Maximum lot coverage by buildings	27.5 percent
Minimum setback	*
Minimum side yard	*
Minimum rear yard	*
Maximum height	2 story
Garage minimum	1 per family unit
Minimum off-street parking	2 spaces per family unit
Minimum ground floor area	1 story: 1,000 square feet
Minimum ground floor area	2 story: 550 square feet

Garden Apartments	
Minimum lot area per unit	2,900 square feet
Maximum lot coverage by buildings	25 percent

Minimum setback	25 feet
Minimum side yard	30 feet -15 feet corner
Minimum rear yard	25 feet
Maximum height	2 story
Minimum off-street parking spaces	2 per family unit
***Minimum outdoor living space	
Minimum ground floor area	500 square feet per unit

Medium Rise Apartments	
Minimum lot area per unit	1,450 square feet
Maximum lot coverage by buildings	35 percent
**Minimum setback	**
**Minimum side yard	**
**Minimum rear yard	**
Maximum height	3 to 4 story
Minimum off-street parking spaces	2 per family unit
***Minimum outdoor living space	100 square feet
Minimum ground floor area	700 square feet per Unit

** To be established by the Planning Commission at the time of submission of the Outline Development Plan.

*** Outdoor living space in the amount specified must be provided for each family unit on the lot occupied by the multiple resident buildings. This space must be easily accessible for daily use by the residents of the multiple resident buildings. Driveways, parking areas, purely ornamental areas, areas having a width of less than 16 feet and required side or front yard shall not be considered as outdoor living space.

◆ A garage facility shall not be greater in square footage than 800 square feet or one-third (1/3) of the total floor area as defined in Section 1123.23, which structure shall be located on the same lot as the dwelling. For driveway width, refer to Chapter 1163.

NOTE: All standards herein are minimum standards, except lot coverage by buildings and height, which are maximum standards, or unless otherwise stated as both minimum and maximum. All minimum ground floor areas are exclusive of garage buildings, attached or otherwise.

- (3) *Other Standards.* All other provisions of the PUD District shall be those currently in existence in the Zoning Ordinance, except to the extent that the Zoning Ordinance is in conflict with this section, in which case this section and its standards shall prevail.
- (4) *Accessory Use Structure.* An unattached accessory use structure shall be located to the rear of the dwelling. An unattached accessory use structure may be placed no closer than ten feet to the rear property line. An unattached accessory use structure shall not exceed fifteen feet in height. An attached accessory use structure shall be treated as an addition. However an attached accessory use structure may project into the rear yard a distance of not more than ten feet or be located any closer than 15 feet to the rear property line.

(Ord. 0128-2007. Passed 6-18-07; Ord. No. 0017-2017 , Exh. A, 4-3-17)

1169.02 PUBLIC HEARING ADVERTISEMENT.

Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application, notice of which shall **be published on the City website and posted at the municipal building, in a location accessible to the public, and shall** include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ during the calendar week prior to the public hearing.

Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant.

Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

(Ord. 0152-2011. Passed 8-1-11; Ord. No. 0017-2017 , Exh. A, 4-3-17)

1177.05 APPLICATIONS FORWARDED TO PLANNING COMMISSION.

- (a) The Planning Commission shall act upon a home occupation application within 30 days of the public hearing. Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application, notice of which shall **be published on the City website and posted at the municipal building, in a location accessible to the public, and shall** include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ during the calendar week prior to the public hearing. The Planning Commission may approve a home occupation permit only if the following criteria are met:
- (1) The proposed occupation meets the provisions of the Zoning Ordinance.
 - (2) The proposed home occupation is in accord with appropriate plans for the area.
 - (3) The proposed home occupation will not have undesirable effects on the surrounding area.
 - (4) The proposed occupation will be in keeping with the existing land use characteristics and physical development potential of the area.
- (b) The Planning Commission may place conditions on such application that promote and/or preserve the public health, safety and welfare of the City. Such conditions shall be binding on the applicant.
- (c) The Planning Commission shall deny the home occupation application if it is determined that the criteria in Section 1177.05(a) are not met.

(Ord. 102-97. Passed 5-20-97; Ord. No. 0017-2017 , Exh. A, 4-3-17)

1181a.07 CONDITIONAL USE REVIEW.

- (a) *Applications.* Applications for conditional use review for towers or antennas shall be reviewed by the Planning Commission, as required by § 1181a.05, subject to the procedures and requirements of Part Eleven of this Code of Ordinances, except as modified in this section.
- (b) *Pre-application review.*
- (1) *Purpose and applicability.*
 - A. A pre-application review may be scheduled prior to filing a formal application for conditional use review. The pre-application review is optional and not part of the formal application review

process or the required review period. The purpose of the pre-application review is to provide non-binding feedback to applicants to assist in expediting the conditional review process. Any materials submitted to the City for the purposes of the pre-application review shall become part of the public record.

- B. Pre-application reviews do not result in a development decision or permit, and shall not obligate the City or the applicant to take any action on the proposal.

(2) *Pre-application review procedure.*

A. A request for a pre-application review shall be made in accordance with the provisions of this division (b). As an exception to the application requirements listed in § 1181a.05(c)(1), potential applicants may submit conceptual information based on the amount of information known about the project at the time a request for pre-application review is made. The request shall include, at a minimum, two 24x36 hard copies and one digital of the following information:

1. A general description of the proposal including a description of conformance to this chapter;
2. A site plan generally demonstrating the nature of the proposed wireless communications facility and associated site improvements;
3. Conceptual facility elevations; and
4. Any other materials for which the potential applicant would like to receive feedback.

B. The City shall notify the applicant in writing at least 5 days prior to the pre-application review.

(c) *Public hearings.* Before approving or denying the application before it, the Planning Commission shall hold at least one public hearing on such application, notice of which shall be published on the City website and posted at the municipal building, in a location accessible to the public, and shall include place, time, date and nature of such applied for ~~in a newspaper of general circulation in the City~~ during the calendar week prior to the public hearing. Written notice of said hearing shall also be mailed by ordinary mail to the street addresses of contiguous and adjacent property owners of the property for which said hearing is being held. The failure of delivery of such notice shall not invalidate any such application. The names and addresses of all property owners entitled to notice of the public hearing shall be furnished by the applicant. Where the subject of such public hearing involves 50 or more of the property owners of the City, then written notice to owners of the hearing, as provided in the preceding paragraph, shall not be required.

(d) *Conditional use review considerations.* In addition to any standards for consideration of applications for conditional use review pursuant to Part Eleven of this Code of Ordinances, the Planning Commission shall consider the following factors in determining whether the application should be approved:

- (1) Compliance with the requirements of this Subchapter 1181a;
- (2) Height of the proposed tower or facility and its proximity to adjacent structures;
- (3) Nature of the potential for adverse effects on uses on adjacent and nearby properties;
- (4) Relationship of surrounding topography to the view from nearby properties;
- (5) Surrounding tree coverage and foliage and the ability to screen the facilities from the view of nearby properties;
- (6) Design of the tower or facility, with particular regard to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress for maintenance, safety, and prohibition of nuisances;

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- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, with regard to the following:
- A. New towers shall be approved only when the applicant demonstrates that other preferable alternatives are not reasonably available to prevent or remedy a significant gap in personal wireless service. No new tower shall be permitted unless the applicant demonstrates to the reasonable.
 - B. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - 1. No existing towers or other suitable structures are located within the specific geographic limits meeting the applicant's engineering requirements.
 - 2. Existing towers or structures either do not have sufficient height to meet the applicant's engineering requirements or have insufficient structural strength to support the applicant's proposed antenna and related equipment.
 - 3. The applicant's proposed antenna would cause frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - 4. The fees, costs, or contractual provisions required by the owner in order to share or to adapt for sharing an existing tower or structure, are unreasonable. Costs that would exceed new tower development is an example of what may be presumed to be unreasonable.
 - 5. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - 6. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a DAS or CMN using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable, but may be considered as a factor in the decision.
 - 7. The applicant provides documentation that other tower owners were contacted in writing demonstrating the above considerations.
- (e) The Director may hire an independent, qualified consultant to evaluate any technical aspects of the proposed design and location at the Applicant's sole cost.
- (f) In granting a conditional use, the Planning Commission may impose conditions to the extent necessary to minimize any adverse effect of the proposed tower or antenna support structure on adjoining properties or to meet the review considerations of this section.
- (g) The findings and decision of the Planning Commission for denials shall be based on and supported by substantial evidence contained in a written record and record of action which shall be forwarded to the applicant within ten days following the decision. An Applicant may appeal any decision of the Planning Commission to the Board of Zoning and Building Appeals. The decision of the Board of Zoning and Building Appeals shall be final.

(Ord. No. 073-2020 , § 2(Exh. A), 10-6-20)