

## ORDINANCE NO. 2015-08

### An Ordinance Amending Sec. 13-1-69 of the City Code Pertaining to PUD Planned Unit Development Overlay District

The Common Council of the City of Cedarburg, Wisconsin, hereby ordains as follows:

SECTION 1. Section 13-1-69 of the Municipal Code of the City of Cedarburg is hereby amended as follows:

#### **SEC. 13-1-69 PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.**

(a) **Purpose.**

(1) The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable ~~economic~~ cost effective design in the location and use of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Planned Unit Development Overlay District under this ~~Chapter Ordinance~~ will allow for flexibility ~~of~~ in overall development design to accommodate development, redevelopment and rehabilitation of property that will serve the best interests of the City with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements as set forth in the underlying basic zoning district. The use of the PUD District shall be subject to regulatory standards as necessary to be consistent with the direction set forth in the City of Cedarburg Smart Growth Comprehensive Land Use Plan – 2025, and components thereof.

(2) The unified and planned development of a site in a single, partnership, or corporate ownership or control, or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the City upon specific petition, ~~under this Section of the Chapter and after public hearing,~~ with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

(b) **Permitted, Accessory and Conditional Uses.** ~~(Also see Section 13-1-225)~~ Any use permitted in the underlying basic use district or other overlay districts.

~~(c) **Permitted Accessory Uses.** Uses allowed in a PUD may be any use permitted in the underlying basic use or overlay district; however, with the consent of the owners, the permitted and conditional uses may be specifically limited and defined in accordance with the considerations contained in Section 13-1-69.~~

~~(d) **Conditional Uses.** (Also see Section 13-1-226.) Any conditional use permitted in the underlying basic use district or other overlay district.~~

(ec) **Minimum Area Requirements.** Areas designated as PUD Planned Unit Development Overlay Districts shall be under single or corporate ownership or control and shall contain a minimum development area ~~of~~ as follows:

<u>Principal Uses</u>	<u>Minimum Area of PUD</u>
Residential PUD	2 <u>1</u> acres
Commercial PUD	2 <u>1</u> acres
Industrial PUD	10 acres
Mixed Compatible Use	0 acres (no minimum-area)

~~(fd) **Density Requirements.** Only one of three possible levels of residential density shall be allowed in specific PUD Districts: The district area, width, and yard requirements of the underlying basic use district may be modified; however, in no case shall the average density in the district exceed the number of dwelling units that would have been permitted if the PUD Planned Unit Development Overlay District regulations had not been utilized.~~

~~(1) The number of dwelling units allowed as a permitted use in the underlying zoning district; or~~

~~(2) The number of residential dwelling units allowed as a conditional use in the underlying zoning district; or~~

~~(3) The number of residential dwelling units allowed where an increased density is allowed in recognition of a project of exceptionally high overall quality as provided below.~~

(e) **Increased Density Justification.**

~~(1) If, notwithstanding dimensional differentials, a proposed project uniformly contains exterior and interior materials, design details, workmanship and features of an exceptionally high quality that emulates the historic character of Cedarburg and/or the immediate neighborhood, an "increased density" for residential dwelling units may be recommended by the Plan Commission and approved by the Common Council as part of the original PUD District approval process.~~

~~(2) If granted, the increased density level of a residential use shall be in lieu of any other possible residential density.~~

~~(3) An increased density shall constitute a discretionary number of residential units based on the following criteria for consideration/recommended by the Plan Commission and approved by the Common Council:~~

~~(a) Whether the project will provide better utilization of the land than would otherwise be realized if the site were developed with the density requirements of the underlying district or as a PUD without an increased density.~~

~~(b) Whether the project makes adequate provisions such that an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use(s) associated with the proposed project.~~

- (c) Whether the structures proposed for the project are harmonious with existing nearby structures and land uses.
- (d) Whether building materials have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
- (e) Whether the proposed project will result in the construction or upgrading of specific public infrastructure improvements that will benefit the public at no cost to the City.
- (f) Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.

(gf) **Lot Area and Width.** ~~(Also see Article E.)~~

- (1) ~~Individual lot sizes required by the underlying basic use district may be modified in order to make use of special topographic features of the site or to provide common open space area. No individual lot shall provide an area less than two-thirds (2/3) the area required in the underlying basic use district.~~
- (2) ~~Individual lot widths required by the underlying basic use district may be modified; however, no lot shall be less than two-thirds (2/3) the width required in the underlying basic use district.~~

The lot area and lot width requirements of the underlying base zoning district may be modified if deemed appropriate by the Common Council following recommendation by the Plan Commission, provided that lot sizes are adequate to accommodate all proposed buildings and site features.

(hg) **Building Height and Area.** ~~(Also see Article E.)~~

- (1) ~~Buildings in a PUD Planned Unit Development Overlay District shall not exceed the height permitted in the underlying basic use district.~~
- (1) The Common Council following recommendation by the Plan Commission may allow an increase in allowable building heights if it is determined that such an increase is warranted to support the public benefit likely to result from the proposed development.
- (2) The floor area ratio (F.A.R.) and lot coverage percentage (L.C.P.) for the principal buildings and accessory buildings shall be established on a case-by-case basis as an element of a residential PUD Planned Unit Development project at the time of the final plat approval.

(ih) **Setback and Yards.** ~~(Also see Section 13-1-27 and Article E.)~~

- (1) ~~Setbacks in PUD Planned Unit Development Districts shall be a minimum of twenty-five (25) feet from any street right-of-way.~~ Setbacks and yards required by the underlying base use zoning district may be modified in PUD Planned Unit Development Overlay Districts if deemed appropriate by the Common Council following recommendation by the Plan Commission.
- (2) ~~No principal structures in planned developments shall be located closer than twenty (20) feet to another structure. There shall be a side yard not less than twenty (20) feet in width at least every one hundred sixty (160) feet for a row house.~~

~~(3) Structures in planned residential development structures shall have a rear yard of not less than twenty five (25) feet.~~

(j) **Procedure.**

(1) ~~Prepetition conference~~ Concept Review.

- (a) ~~Prior to official submittal of the petition for approval of the designation of a PUD Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the City Plan Commission or its staff and provide sufficient written details and drawings concerning to discuss the scope and proposed nature of the contemplated development as necessary to permit an adequate staff review.~~
- (b) ~~Staff review will involve all City departments in an assessment of the feasibility and potential impacts of the project on City infrastructure and resources as well as its conformity with the provisions of the City Zoning Code.~~
- (c) ~~The purpose of conceptual review is solely to allow for discussion and feedback about a possible project regarding issues that may have to be addressed in the event a petition is submitted.~~
- (d) ~~Discussion and feedback about the proposed nature and scope of the proposed project at the conceptual review by City staff and the Plan Commission shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development proposed or discussed.~~

(2) The Petition.

Following the ~~prepetition conference~~ concept review, the owner or his agent may file a petition with the City Clerk for an amendment to the City's zoning district map designating and adding a PUD Planned Unit Development Overlay District to the underlying basic use or other overlay zoning district(s), thereby permitting the application of the provisions of this Section to the designated area. Such petition shall be accompanied by a fee as required under Section 13-1-230 of this Chapter, as well as the following information:

- a. A statement ~~which that~~ sets forth the relationship of the proposed PUD Planned Unit Development Overlay District to the City's adopted ~~master plan~~ Smart Growth Comprehensive Land Use Plan - 2025 or any adopted component thereof; and the general character of and the uses to be included in the proposed PUD Planned Unit Development Overlay District, including the following information as applicable:
  - 1. Total area to be included in the PUD Planned Unit Development Overlay District, area of open space, residential density ~~computations~~ computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development. In addition, said petition shall include all data required for land division pre-application by Title 14 ~~titled~~ "Land Division and Subdivision Regulations," of the City of Cedarburg Code of Ordinances.

2. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
  3. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services and to determine the manner in which the owners management's association will participate in the formulation and execution of the development agreement.
  4. Any proposed departures from the standards of development as set forth in the City zoning regulations, land division ordinance, sign ordinance, other City regulations or administrative rules, or other universal guidelines.
  5. ~~The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.~~ A development timetable, including all benchmark dates from commencement to completion of the physical development of the proposed project.
- b. A general development plan which shall include, in addition to those site plan and architectural review requirements set forth in Article F of this Chapter, the following as applicable:
1. A preliminary plat, condominium plat or certified survey map illustrating of land division of a subdivision or other division of land as part of the plan of development of the PUD Planned Unit Development Overlay District. Said preliminary plat, condominium plat or certified survey map shall include all additional information as required by Title 14 ~~titled~~ "Land Division and Subdivision Regulations" of the City of Cedarburg Code of Ordinances.
  2. A legal description of the boundaries of lands included in the proposed PUD Planned Unit Development Overlay District.
  3. A description of the relationship between the lands included in the proposed PUD Planned Unit Development Overlay District and the surrounding properties.
  4. The location of public and private roads, driveways, and parking facilities and the calculations used to justify the number of spaces proposed.
  5. The size, arrangement, and location of any individual building sites and proposed building groups on each individual lot.
  6. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
  7. The type, size, and location of all structures.
  8. General landscape treatment.
  9. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.

10. The existing and proposed location of public sanitary sewer, water supply facilities, and stormwater drainage facilities.
11. The existing and proposed location of all private utilities or other easements.
12. Characteristics of soils related to contemplated specific uses.
13. Existing topography on the site with contours at no greater than two (2) foot intervals National Geodetic Vertical Elevation.
14. ~~Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.~~
15. If the development is to be staged, a staging plan.

(k) **Land Divisions.** Any proposed division of land ~~which~~ that results in a subdivision or any division of land other than a subdivision ~~which~~ that is part of the proposed PUD Planned Unit Development Overlay District shall be subject to the requirements of Title 14 "Land Division and Subdivision Regulations" of the City of Cedarburg Code of Ordinances.

(l) **Referral to Plan Commission.** The petition for a PUD Unit Development Overlay District shall be referred to the Plan Commission for its review and recommendation. The Plan Commission may add any additional conditions or restrictions which may deem necessary or appropriate to promote the spirit and intent of this Chapter and the purpose of this Section.

(m) **Public Hearing.** Upon receipt of the Plan Commission's recommendation, the Common Council shall, before determining the disposition of the petition, hold a public hearing pursuant to the provisions of Article I of this Chapter. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.

(n) **Basis for Approval.**

(1) The Plan Commission, in making its recommendations, and the Common Council, in making its determination, shall consider:

a. Whether the petitions for the proposed PUD Planned Unit Development Overlay District ~~have~~ has indicated that they intend to begin the physical development of the designated PUD Planned Unit Development Overlay District within ~~nine (9)~~ twelve (12) months following the approval of the petition for a PUD Planned Unit Development Overlay District and ~~that the development will be carried out according to a reasonable construction schedule satisfactory to the City. A development timetable, including all benchmark dates from commencement to completion of the physical development of the proposed project.~~

b. Whether the proposed PUD Planned Unit Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Chapter, ~~;~~ is in conformity with the ~~master plan~~ Comprehensive Land Use Master Plan - 2025 or component plans thereof for community development, ~~;~~ would not be contrary to the general welfare and economic prosperity of the City or of the immediate neighborhood, ~~;~~ and that the benefits and improved design of the resultant development justifies the establishment of a PUD Planned Unit Development Overlay District.

- c. The Plan Commission and the Common Council shall not give their respective recommendations or approvals unless it is found that:
  - 1. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
  - 2. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
  - 3. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
  - 4. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances and administrative regulations of the City.
  - 5. ~~Centralized~~ public water and sewer facilities shall be provided.
  - 6. The entire tract or parcel of land to be included in a PUD ~~Planned Unit Development Overlay District~~ shall be held under single ownership, or if there is more than one (1) owner, the petition for such PUD ~~Planned Unit Development Overlay District~~ shall be considered as one (1) tract, lot, or parcel, and the legal description must define said PUD ~~Planned Unit Development Overlay District~~ as a single parcel, lot, or tract and be so recorded with the Register of Deeds for Ozaukee County, and;

(2) ~~That in the case of proposed~~ For Residential PUD Planned Unit Development Overlay Districts:

- a. Such development will create an attractive ~~residential~~ environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ~~ready~~ access to recreation space, and coordination with overall plans for the neighborhood.
- b. The total net residential density within the PUD Planned Unit Development Overlay District will be compatible with the City's ~~master plan~~ Smart Growth Comprehensive Plan - 2025 and/or the average density permitted in the underlying basic use district.
- c. Provisions ~~has~~ have been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
- d. Provisions ~~has~~ have been made for adequate, ~~and continuing~~ continued fire and police protection.
- e. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed schools or other municipal service facilities.
- f. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservations and maintenance or by dedication to the public.

- (3) ~~That in the case of proposed e~~For Commercial PUD Planned Unit Development Districts:
- a. The economic practicality of the proposed development can be justified.
  - b. The proposed development will be adequately served by off-street parking and truck service facilities.
  - c. The proposed development shall be adequately provided with and shall not ~~impose any undue burden on~~overburden public services and facilities, such as fire and police protection, street ~~maintenance, and maintenance of~~ and public areas maintenance.
  - d. The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
  - e. The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (4) ~~That in the case of proposed i~~For Industrial PUD Planned Unit Development Overlay Districts:
- a. The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standard and industrial development design and will not result in adverse effect upon the property values of the surrounding neighborhood.
  - b. The proposed development shall be adequately provided with and shall not ~~impose any undue burden on~~overburden public services and facilities, such as fire and police protection, and street maintenance, ~~and maintenance of~~ public areas maintenance.
  - c. The proposed development will include adequate provision for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
  - d. The proposed development is ~~properly related to the total transportation system of the community and will not result in an adverse~~adversely effect ~~affect on the safety and efficiency of the City's public streets and overall transportation system.~~
- (5) ~~That in the case of m~~For Mixed use PUD Planned Unit Development Overlay Districts:
- a. The proposed mixture of uses produces a unified composite which is compatible within the underlying zoning districts and which, as a total development entity, is compatible with the surrounding neighborhood.
  - b. The various types of uses conform to the general requirements as herein before set forth, ~~applicable to project of such use and character.~~
  - c. The proposed development shall be adequately provided with and shall not ~~impose any undue burden on~~overburden public services and facilities, such as fire and police protection, and street ~~maintenance, and maintenance of~~ and public areas maintenance.

(n) **Development Agreement.**

- (1) The City's review and approval process shall be conditioned on the execution by the Common Council and the applicant of the development agreement approved by the Common Council with its approval embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
- (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Common Council and shall include without limitation:
  - a. Timetables for performance/completion of improvements;
  - b. Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PUD;
  - c. Inspection requirements;
  - d. Prohibition on any division/combo of real estate lots included within the PUD District except as otherwise provided, including an exception for residential condominium units;
  - e. Provisions for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PUD District status upon specific changes of circumstances or failure of the project to materialize as agreed to in the development agreement;
  - f. Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PUD District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities;
  - g. Exhibits, drawings or other attachments that depict improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as necessary to document to a reasonable degree of specificity the type, character and nature of improvements to be made within the development area.

(o) **Disposition of the Petition.**

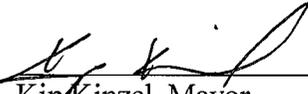
- (1) General Approval. After the public hearing and due consideration, the Common Council shall either deny the rezoning petition for a PUD Planned Unit Development Overlay District, approve the petition as submitted or approve the petition as ~~modified~~ with modifications by additional conditions and restrictions or deny the rezoning petition of a PUD Planned Unit Development Overlay District. The approved preliminary plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings. The approval of the petition shall be based upon the building, site, and operational plans for the development and shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses. Zoning permits may only be issued upon obtaining general approval of the petition for rezoning for a PUD Planned Unit Development Overlay District. Site and architectural plans submitted shall meet the requirements of Article F of this Chapter.

- (2) Detailed Approval. Plans submitted for detailed approval shall be precise and contain all items as may be required by the Plan Commission. A letter of credit for all improvements shall be submitted before such approval is granted. Detailed approval of the plans for each stage of development shall be required before building permits will be issued for the construction of the structures which are included in the plans for that stage of development.
- (3) Changes or Additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the City Plan Commission and if, in the opinion of the City Plan Commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the ~~City Plan Commission~~ Common Council shall be required and notice thereof be given pursuant to the provisions of ~~Article I Section 13-1-229 of the Zoning Code, this Chapter and said proposed alterations shall be submitted to the Common Council for approval.~~
- (4) Termination. If a building permit is not issued within one (1) year of receiving the PUD zoning, the PUD district zoning for the property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PUD rezoning.

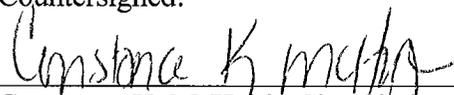
- ~~(p) **Traffic, Loading, Parking, and Access.** (See Article D.)~~  
~~(q) **Nonconforming Uses, Structures, and Lots.** (See Article G.)~~  
~~(r) **Performance Standards.** (See Article H.)~~  
~~(s) **Signs.** (See Title 15, Chapter 5 of the Code of Ordinances.)~~  
~~(t) **Site Plan Review.** (See Article F.)~~  
~~(u) **Architectural Review.** (See Article F.)~~

SECTION 2. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted this 8<sup>th</sup> day of June, 2015.

  
\_\_\_\_\_  
Kip Kinzel, Mayor

Countersigned:

  
\_\_\_\_\_  
Constance K. McHugh, City Clerk

Approved as to form:

  
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Michael P. Herbrand, City Attorney