

ORDINANCE

City of Portland, Tennessee

No. 24 – 02

Second Reading

AN ORDINANCE AMENDING ZONING ORDINANCE NUMBER 387, COMBINED ZONING ORDINANCE OF THE CITY OF PORTLAND, TENNESSEE, BY REPEALING AND REPLACING ARTICLE XII: PLANNED UNIT DEVELOPMENTS OF LANGUAGE AND DEFINITIONS

WHEREAS the City Council of the City of Portland wishes to amend and replace Article XII: Planned Unit Development of the Municipal Zoning Ordinance 387.

WHEREAS, the Planning Commission is responsible for the orderly development of land; and

WHEREAS, the City of Portland believes that such amendment will promote, protect, and facilitate the public health, safety, and welfare of the community through coordinated and practical land use and land development for the betterment of Portland's population; and

WHEREAS the Portland Municipal Planning Commission recommended approval of this Zoning Code Amendment to the Mayor and City Council by a vote of --- at their January 9th, 2024 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Portland, Tennessee, as follows:

Section 1. The City Council of the City of Portland does hereby approve, authorize, and direct the revision of the City's Official Zoning Ordinance to show the changes in the text as described in Exhibit A: Article XII: Planned Unit Development:

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict, and that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.



Mayor Mike Callis



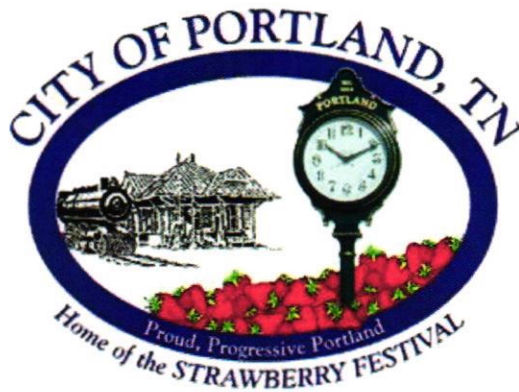
Attest: Rachel Slusser, City Recorder

Passed First Reading: January 8, 2024

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Public Hearing: February 5, 2024

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City of Portland, Tennessee Proposed Planned Unit Development Regulations

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ARTICLE XII: PLANNED UNIT DEVELOPMENTS

CHAPTER 1: PURPOSE AND OBJECTIVES

12.101 PURPOSE:

The purpose of this Article is to provide design freedom to the developer in order to create a better living environment for current and future residents of the City. Quality private development requires a flexible approach to be available both to the City and to the developer. Deviations from the uniformity characteristic of traditional zoning regulations and the use of new and innovative techniques are henceforth to be encouraged as a matter of policy. However, this section is not intended to make increased densities more acceptable without corresponding benefits to the City, nor is it to be utilized as a means of circumventing the City's development regulations.

12.102 OBJECTIVES:

In return for greater flexibility in site design requirements, Planned Unit Developments are expected to deliver exceptional quality community designs that accomplish the following objectives:

Objective #1: Accountability:

Developments shall strictly adhere to the guidelines provided herein. No waiver of any City requirement may be granted unless specifically authorized by this Article.

Objective #2: Demonstration of Public Benefit:

Developments shall demonstrate substantial public benefit, to potentially include developer assistance in implementing City recreation, transportation, utility, and public safety goals.

Objective #3: Innovative and Flexible Project Design:

Developments shall incorporate a creative approach to the use of land that avoids monotony and that results in a higher quality design than might otherwise be accomplished.

Objective #4: Neighborhood Compatibility:

Developments shall be designed in order to ensure compatibility and a harmonious relationship with surrounding land uses.

Objective #5: Quality Architectural Design:

Developments shall be designed to incorporate quality architectural design via the submittal and approval of detailed renderings and elevations as part of the entitlement process.

Objective #6: Preservation of High Quality Open Space:

Developments shall be designed in order to encourage the conservation of high quality open space, as well as the preservation of natural features and environmentally sensitive areas.

Objective #7: Provision of Amenities

Developments shall provide unique amenities, such as interconnected pedestrian pathways and on-site recreational facilities such as clubhouses, swimming pools, fishing ponds, etc.

Objective #8: Efficiency:

Developments shall make efficient use of land, resulting in networks of utilities, streets, and other infrastructure features that maximize allocation of fiscal and natural resources.

CHAPTER 2: RELATIONSHIP BETWEEN PLANNED UNIT DEVELOPMENTS AND OTHER REGULATIONS

12.201 : ZONING STATUS OF PLANNED UNIT DEVELOPMENTS:

Planned Unit Development (PUD) districts shall be structured so as to reference their base zoning district or districts, and to make clear that they are subject to an adopted PUD. Such zoning designation shall be reflected upon the official City Zoning Map.

For example, R-15 PUD, GCS-PUD, RM1-PUD, etc.

12.202 : DISTRICTS IN WHICH PLANNED UNIT DEVELOPMENTS ARE PERMITTED:

Planned Unit Developments shall be permitted in all zoning districts, except for the Central Business District (CBD) zoning district.

12.203 : EXCEPTIONS FROM ZONING AND SUBDIVISION STANDARDS, GENERAL AUTHORIZATION:

Within PUDs, the Planning Commission may recommend, and the City Council may grant, specific exceptions to the underlying district's lot, density, use and bulk standards, as well as other applicable Zoning and Subdivision Regulations standards where it is determined that such modifications shall not negatively affect the value and enjoyment of surrounding property, the provision of municipal services, or the flow of traffic.

12.204 : EXCEPTIONS FROM REQUIREMENTS OF THIS ARTICLE PROHIBITED:

While exceptions to other Zoning requirements are permissible, no exceptions may be granted to any requirement of this Article unless specifically authorized by this Article. All requirements of this Article shall apply to all PUDs unless otherwise stated.

12.205 : EXCEPTIONS FROM OTHER ZONING AND SUBDIVISION STANDARDS, APPROVAL REQUIRED:

The underlying zoning district's requirements as well as all other applicable Zoning and Subdivision Regulation standards shall by default apply, unless an exception is specifically granted as part of the approved PUD. To be considered for approval by the City Council, any exception must have been reviewed by the Planning Commission and must be specifically noted within the Preliminary Development Plan and Regulating Pattern Book within a table created and labeled for that purpose.

To clarify: Unless the exception is specifically granted as part of the PUD approval, and unless such exception is specifically reflected on the governing documents for the development, the underlying district requirements shall apply. No exceptions shall be implied unless explicitly stated or shown on the PUD's governing documents.

12.206 : CRITERIA FOR GRANTING EXCEPTIONS:

To be granted such exceptions, the applicant must demonstrate compliance with the Purpose and Objectives provided at Chapter 1 of this Article, above. *In no case shall an exception to district regulations within a PUD be granted unless the applicant demonstrates a substantial benefit to the City.*

Design characteristics and amenities to be considered in this determination shall include, but are not limited to the following:

- (A) Landscaping, buffering, or screening within or around the perimeter of the PUD that is in addition to the minimum required by this Ordinance.
- (B) The provision of additional landscaping and screening of parking lots and structures in addition to the minimum required by this Ordinance.
- (C) Reduced use of impervious surface materials, including use of semi-pervious material such as grass-crete.
- (D) Design characteristics including, but not limited to, mixed use development circulation systems that utilize alleys or traffic-calming techniques, and pedestrian-oriented environment.
- (E) Community amenities including plazas, malls, formal gardens, places to congregate, outdoor seating, public art, and pedestrian facilities.
- (F) Preservation of environmental features such as wetlands, conservation areas, hillsides, streams, or other unique features.
- (G) Preservation of historic or other culturally significant features.
- (H) Recreational amenities such as:
 - (1) Swimming Pools
 - (2) Outdoor rooms, arbors, gazebos, seating areas, and other hardscape
 - (3) Clubhouse with meeting and fitness facilities
 - (4) Jogging trails and fitness courses
 - (5) Playgrounds and dog parks
 - (6) Lakes and natural water features
- (I) Retention ponds and detention areas which are accessible to occupants or the public via nature trails, boardwalks, and/or perimeter walkways, but only if they are designed as natural water features and are landscaped with native vegetation.
- (J) Additional public infrastructure improvements in addition to the minimum required by this Ordinance, such as ornamental streetlights, street name signs, stop signs, and mailboxes.
- (K) Dedication of lands for public uses.
- (L) Offsite Traffic, Recreational, or Public Safety Improvements, or payments in lieu of such improvements.
- (M) Provision of sign standards which exceed the minimum required by this Ordinance.
- (N) Provision of a Design Guide with design standards which exceed the minimum required by City's Design Guidelines. For residential PUDs, this includes provision of draft elevations and floorplans of the homes which are to be built, as well as renderings depicting entryway monumentation, landscaping, fencing etc.
- (O) Restrictive covenants which prohibit, limit, or provide standards for utility buildings, fences, and similar structures.
- (P) Provision of requirements within the governing documents of the Owner's Association which stipulate that maintenance for all Open Space areas shall be performed by a 3rd party vendor at the Owner's Association's expense.

CHAPTER 3: MINIMUM STANDARDS FOR ALL PLANNED UNIT DEVELOPMENTS

12.301: GENERAL STANDARDS:

All applications for PUD approval will be evaluated using the following standards of review:

- (A) The site of the PUD shall be under common ownership and/or unified control. If there are two (2) or more owners, the application for the PUD shall be jointly filed by all owners.
- (B) There shall be a minimum size of two (2) acres for any new PUD, with the exception that all rezoning requests containing a multi-family component shall be submitted in accordance with this Article regardless of acreage.
 - (1) "Multi-family" as used within this Article shall mean a building containing three (3) or more dwelling units, including apartments, condominiums and the like. It shall not include townhome developments, in which each dwelling unit is on an individual lot with each dwelling unit being separated from the other units by a party wall.
 - (2) This requirement shall in no way limit or abrogate any existing zoning entitlement.
- (C) The proposed PUD must be in agreement with the adopted Land Use Plan and any adopted Area Plan for the City. Planning Staff shall clarify upon the record whether this is the case. It shall be incumbent upon the applicant to seek amendment to any applicable City Plans simultaneously with submitting the proposed PUD. The Planning Commission shall not recommend for approval any proposed PUD not in compliance with such adopted plans.
- (D) All rezoning requests that wholly, or in part, contain multi-family uses as defined by this Zoning Ordinance shall be required to be submitted in accordance with this Article.
- (E) Approval of a PUD shall be based upon a finding by the Planning Commission that studies provided by the applicant do confirm that streets, utilities, and drainage features have adequate capacity to serve the proposed development. If deficiencies do exist, the applicant shall offer to upgrade or otherwise provide adequate facilities to support their development.
- (F) Any PUD shall be responsive to the character of surrounding properties and the existing neighborhood area. When located in an area where land use types and/or intensities or densities vary, the development shall be designed in such a manner as to provide for gradual changes in intensity and/or density.
- (G) Street System connectivity to adjoining properties shall be provided wherever possible in the judgment of the Planning Commission and City Council.
- (H) Walkways and trails are encouraged to be provided within the PUD in a manner which promotes pedestrian safety and circulation. Where appropriate, the plan shall provide pedestrian/bicycle access to, between or through open space areas and to appropriate off-site amenities.
- (I) No sidewalk waivers shall be allowed for any PUD containing a residential component. Sidewalk waivers may be allowed for nonresidential PUDs at the discretion of the Planning Commission and City Council.
- (J) No action of the Board of Zoning Appeals shall be required in the approval of a PUD.
- (K) PUD districts shall be designed to preserve the natural features of the land and historic resources, such as existing trees, natural topography, and archaeological and historic sites, as much as possible.
- (L) The PUD shall include additional screening, buffering, transitional uses or other design features as necessary to adequately protect existing or proposed uses of surrounding property;

- (M) Homeowner associations or some other responsible party shall be required to maintain any and all common and open space and/or common elements, unless accepted to be conveyed to the City.
- (N) All utilities shall be underground within PUD districts.
- (O) No PUD application shall be considered unless such proposed plan includes a certification that the services of one or more design professionals in one or more of the following disciplines were utilized in the preparation of the Development Plan and Regulating Pattern Book in addition to a licensed civil engineer.
 - (1) An urban planner who possesses the education and experience to qualify for membership in a recognized professional planning association;
 - (2) A practicing landscape architect licensed by the State of Tennessee
 - (3) A practicing architect licensed by the State of Tennessee.
- (P) A Development Agreement shall be required at the Platting/Site Plan stage for all developments that will involve the installation of any infrastructure to be owned and/or maintained by the City.
- (Q) In order to provide feedback to the applicant, an optional and nonbinding conceptual review of any proposed PUD is authorized to be undertaken by the Planning Commission.
- (R) City standards for public notice and advertisement shall be met for all applications. Any additional notice requirements provided by this Article are in addition to any required by the City and by State law.
- (S) All PUDs shall be designed to facilitate safe and efficient ingress and egress for municipal and/or private solid waste vehicles. All developments shall be designed to ensure such access without otherwise blocking or obstructing the flow of traffic along bordering streets.
- (T) All PUDs shall be designed to facilitate safe and efficient ingress and egress for school buses. All developments, and non-single family residential developments in particular, may be required to provide bus turnouts, pull out stops, covered rider shelters, or other design elements in order to ensure safety.

12.302: SPECIFIC STANDARDS:

In addition to the General Standards noted above, the following Specific Standards shall apply to all PUDs:

(A) Minimum Lot Sizes:

Lot Sizes may not be less than 50% of that allowed by the base zoning. However, except as indicated in these standards, no proposed building lot within a PUD may be reduced to less than 5,000 square feet.

Note: Townhome lots under individual units shall not be less than 2,000 square feet. Townhome development lots as a whole (meaning groups or blocks of Townhomes) shall not be less than 6,000 square feet (2000 sq/ft per unit X minimum of 3 units=6,000 sq/ft)

Note: Multi-family developments shall provide a minimum of 5,000 square feet of lot area per residential unit.

Note: Horizontal Property Regimes (HPR) shall also comply with these standards in that each HPR dwelling unit or group of dwelling units within such Regime shall be provided with sufficient open space around each unit or group of units to meet these minimum area requirements.

(B) Minimum Setbacks:

In no event shall setbacks be reduced to less than:

Front: 20 feet

Side: 5 feet

Rear: 15 feet

Note: A side yard of at least these dimensions is required on each end of a group or block of attached townhomes and multi-family dwellings. Zero (0) feet is required on the interior sides of each townhome and multi-family dwelling (shared wall).

Note: Horizontal Property Regimes (HPR) shall also comply with all of these standards. Each HPR dwelling unit within such Regime shall be provided with sufficient open space around each unit or group of units to meet this minimum yard requirement.

Note: Certain zoning districts contained in this Ordinance may allow "build to" lines that reduce setbacks to less than these PUD standards. These PUD standards shall govern in the event of a conflict.

(C) Allowable Uses:

All uses allowed and allowed upon appeal as per the base zoning shall be allowed. However, the Planning Commission may recommend, and the City Council may require, the elimination of certain uses that may be deemed objectionable or not in keeping with the area as part of a PUD approval. In addition, the applicant may voluntarily limit uses that would otherwise be allowable in the base zoning district.

The applicant may request the addition of uses or mix of uses that may not be allowed as per the base zoning, and such uses may be approved by the City Council upon recommendation by the Planning Commission. Such uses must be noted as a requested exception as required at Chapter 2 of this Article.

For example: In a district that might otherwise only allow standard detached single family dwellings, the applicant may request the addition of a convenience commercial use for the development. Any such items must be noted as an exception upon the governing documents for the development, and must be clearly indicated upon the Preliminary/Final Development Plan and Regulating Pattern Book.

(D) Buffers:

- (1) A 15 foot Type B buffer yard shall be provided around the perimeter of all PUDs consisting solely of a single family residential uses.
- (2) A 20 foot Type C buffer yard shall be provided around the perimeter of all PUDs containing a commercial component, or a residential component containing townhomes, two family dwellings of any kind, or semi-detached dwellings.
- (3) A 25 foot Type D buffer yard shall be provided around the perimeter of all PUDs containing an industrial component or a residential component containing multi-family residential.
- (4) Specific planting requirements for various buffer yards are found at Table 4-502 of this ordinance.

(5) As used within this article, “perimeter” is intended to mean the sides and rear, as well as the front of a subject property.

(a) In other words, at any point in which a proposed development fronts existing right of way, a buffer meeting these requirements shall be provided in addition to buffering along the sides and rear of the property.

(b) Within the front buffer, the applicant may substitute decorative fencing, entryway monumentation, and other similar amenities for required canopy tree plantings, provided that required accent trees and shrubs are planted as required by this ordinance.

(c) Sidewalks shall be required to be installed along or within all front buffers. No exceptions or in lieu of payments are allowed within PUDs containing a residential component.

(6) All required buffers shall be located in Open Space under ownership of the homeowner or property owners’ association. No required buffer of any kind shall be contained on any single family residential building lot. Landscape easements etc, are prohibited on single family residential building lots.

(E) Transitions

Proposed lot sizes around the perimeter of the development which directly border other property currently used for single family residential uses shall not be less than the minimum required by the requested base zoning if such homes are within 250 feet of the property proposed for rezoning. This requirement shall be applied to each boundary of the project independently, to include the front of the property, and shall be in addition to any required buffers.

Example #1: if the applicant is requesting an R-15 PUD zoning, the minimum lot size for lots around the perimeter of the development shall be 15,000 square feet if those lots will border property in which existing homes are within 250 feet of the proposed PUD.

Example #2: If a new PUD is to be surrounded by property in which there are no homes within 250 feet of the development’s boundaries, this requirement shall not apply.

Example #3: If homes are located within 250 feet of one side of a development, and the other sides contain no homes within 250 feet of the proposed development, this requirement shall be applied only to the side containing homes within 250 feet of the proposed development.

(F) Market Analysis:

The Planning Commission or City Council may require the developer to provide a market analysis for any PUD containing a nonresidential component. The analysis will be utilized, among other things, to determine the economic feasibility of the proposed project, and to determine the impact of the proposed development on the long-term development of commercial/industrial land use in the area.

(G) All PUDs containing a residential component shall submit population projection data, to include projected adult and school aged population at build out.

CHAPTER 4: OPEN SPACE, AMENITIES, AND PERPETUAL MAINTENANCE STANDARDS

: QUALITY AND CHARACTER OF OPEN SPACE:

The following requirements shall apply for all common elements and associated improvements located within any PUD:

- (A) At least 20% of the gross site acreage of the PUD shall be comprised of open space.
- (B) All Open Space shall be classified as either:
 - (1) Usable Open Space
 - (2) Passive Open Space
- (C) Not less than 10% of the gross site acreage shall be Useable Open Space, which is defined as follows:
 - (1) Useable Open Space: An area or areas within the boundaries of a development that are designed, set aside and maintained for either active or passive recreation, or both, and are available and accessible for use and enjoyment by all residents of the development.
 - (a) Useable Open Space must be suitably improved for its intended use. Active recreation facilities are encouraged. Permitted uses for usable open space may include, but are not limited to pedestrian, bike and multi-purpose trails, pocket parks, playgrounds, etc.
 - (b) Areas of Useable Open Space must be clearly delineated on the Amenities Plan Sheet, along with table of calculations showing that these requirements have been met.
- (D) All Open Space not classified as Usable shall be classified as Passive Open Space, which may include, but not be limited to, required landscape buffers, important natural features, cemeteries, agricultural uses, and Stormwater detention facilities.
- (E) Public right of way, as well as any right of way that may be set aside for private streets, may not be counted toward any Open Space calculations.
- (F) Existing Public Utility Easements, including TVA transmission easements, pipeline easements and other similar easements owned by utilities not controlled by the City may not be counted toward any Usable Open Space calculations.
- (G) Lands Located within the Floodplain or Floodway or that are located within a designated wetland may not be counted toward Usable Open Space requirements, unless the developer proposes to install recreational amenities within them, such as boardwalks, pedestrian footpaths/bridge crossings etc. Any applicable federal/state/local permitting requirements shall apply, and shall be the developer's responsibility.
- (H) Lands to be dedicated to the City may be counted toward Usable Open Space requirements if actually accepted by the City.

: AMENITIES PLAN REQUIRED:

All PUDs shall provide an Amenities plan within the Preliminary Development Plan and Regulating Pattern Book, which at minimum shall provide:

- (A) A description and location of all proposed amenities
- (B) A table indicating overall useable and passive open space proposed,
- (C) A specific phasing plan for all amenities and open space improvements.

: SURETY FOR PROPOSED AMENITIES REQUIRED:

The City shall require that surety guaranteeing all private amenities for the entire development be posted prior to initiation of construction for the first phase of the development. Such surety shall be held by the city until the final phase of the project is completed.

: TIMING FOR AMENITY INSTALLATION:

Amenities should be installed and completed in the phase in which they are to be located. However, all amenities must be installed by the developer and approved by the City prior to commencement of grading activities for the final phase of the development.

: MAINTENANCE OF OPEN SPACE:

All open space and usable open space shall be deeded to a homeowners or property owners' association, and the developer shall submit a draft declaration of covenants and restrictions that will govern the association concurrently with the application for Preliminary Development Plan and Regulating Pattern Book approval. The City Attorney shall review the documentation as to conformity with this Article. The provisions shall include, but not be limited to the following:

- (A) The association must be set up before the recording of the first Final Plat for the development;
- (B) Membership must be mandatory for each buyer and any successive buyer;
- (C) The open space and usable open space restrictions must be permanent and not just for a period of years;
- (D) The association must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities;
- (E) Property owners must pay their prorated share of the cost to the assessment levied by the association to meet changed needs.
- (F) The association must assume perpetual responsibility for all Stormwater infrastructure located within an Open Space area, and must enter into a Long Term Stormwater Maintenance Agreement with the City as per state and local requirements.

: DEDICATION OF OPEN SPACE BY DEVELOPER:

- (A) All land shown on the approved Final Development Plan and Regulating Pattern Book as Open Space may be either:
 - (1) Conveyed to a public body, if the public body agrees to accept conveyance and to maintain the common open space and any buildings, structures or improvements which have been placed on it; or
 - (2) Conveyed to an homeowner or property owner's organization for ownership and maintenance
- (B) No common open space of a PUD shall be conveyed or dedicated by the developer or any other person to any public body, homeowner's association or other responsible party unless the Planning Commission has determined that all required improvements, to include Stormwater improvements, have been completely and satisfactorily installed.

: OWNER'S ASSOCIATION DEFAULT:

In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of the PUD fail to maintain the open

space in accordance with the adopted Final Development Plan and Regulating Pattern Book, the City may serve written notice upon such organization and/or the owners or residents of the PUD and hold a public hearing.

If, 30 days following the public hearing, the deficiencies of maintenance remain uncorrected, the City Attorney shall call upon all the owners of property within the PUD to maintain the common open space, and, in default thereof, the City may maintain same.

The cost of such maintenance by the City shall be assessed severally and proportionally against the properties within the PUD that have a right of enjoyment of the common open space and shall become a lien on the properties.

CHAPTER 5: REVIEW AND APPROVAL PROCESS

GENERAL:

Review and approval of a proposed PUD shall entail the following steps. With the exception of an optional and nonvoting conceptual review by the Planning Commission, there shall be no portion of this process which may be waived by city staff or the Planning Commission.

: STEP 1: PRELIMINARY CONCEPT MEETING:

The applicant shall meet with the Planning Department to discuss the initial concepts of the PUD. The applicant shall supply preliminary information including, but not limited to, proposed uses, site constraints, road access, utility availability, and proposed density. Staff shall make the applicant aware of any applicable plans and ordinances. All staff comments are purely advisory in nature.

: STEP 2: PRE-APPLICATION CONFERENCE:

Within 90 days of the preliminary concept meeting, and not less than 10 days prior to any required Neighborhood Meeting, the applicant shall meet with the Planning Department and other departments, as appropriate, for a pre-application conference.

- (A) The applicant shall supply preliminary information to the Planning Department in a form established by the Planning Department. Such information shall be submitted at least three business days prior to the pre-application conference meeting.
- (B) The purpose of the pre-application conference shall be to review refined plans and concepts for the PUD, the submittal requirements for the formal application, and the neighborhood meeting.
- (C) All staff comments provided at the preapplication meeting are purely advisory in nature.

: STEP 3: NEIGHBORHOOD MEETING:

Within 30 days of the pre-application conference, the applicant is required to hold at least one formal neighborhood meeting. This neighborhood meeting shall be held prior to formal submittal of the application for Preliminary Development Plan and Regulating Pattern Book approval. The applicant shall meet the following standards when conducting a neighborhood meeting:

- (A) At least five (5) business days prior to the neighborhood meeting, provide written notice to the Planning Department, including the project name, time, date, and location of the meeting.
- (B) Conduct the neighborhood meeting within proximity of the location of the proposed development. If it is not possible to hold the meeting in proximity to the location of the proposed development, due to lack of public facilities, the meeting shall be held in a nearby convenient location.
- (C) An effort shall be made to provide adequate notice of the neighborhood meeting to the community. At a minimum, informational letters shall be distributed by the applicant to property owners within a 500-foot radius of the proposed PUD.
- (D) Provide the Planning Department with a written summary of the meeting as part of the Preliminary Development Plan and Regulating Pattern Book application. The summary shall include a brief description of the method used to provide notice of the neighborhood meeting to the community and highlight the primary concerns of the neighboring property owners raised at the neighborhood meeting.

(E) The Planning Director may waive the neighborhood meeting requirement for reapplications under the following circumstances:

- (1) For reapplications: If a formal neighborhood meeting has been conducted for the PUD application in the last 12 months and no changes to the original application are being proposed.

: STEP 4: OPTIONAL CONCEPTUAL REVIEW BY PLANNING COMMISSION:

Prior to submittal of a formal application for a PUD, the applicant may make a conceptual presentation to the Planning Commission at a regularly scheduled meeting. The purpose of this submission is to obtain information and guidance prior to entering into binding commitments or incurring substantial expense. There shall be no formal vote on the conceptual presentation. The applicant may furnish whatever information that may assist the Planning Commission with understanding the proposal, but at minimum, such a conceptual presentation shall consist of the following:

- (A) A map or maps in general form containing the proposed land uses, the natural features of the development site, the character and general location of all roadways and access drives proposed within the potential development, the location of adjacent public streets, thoroughfares and public utilities, and approximate schematic drawings showing the size, character, and location of buildings on the site.
- (B) A written cover letter containing a general explanation of the potential development, including a statement of the present ownership of all the land within the development.

: STEP 5: PRELIMINARY DEVELOPMENT PLAN AND REGULATING PATTERN BOOK APPLICATION:

Within 90 days of the pre-application conference, the applicant shall submit an application in accordance with the application requirements contained herein. If the applicant fails to submit an application within 90 days of the pre-application conference, the applicant shall be required to begin the review procedure again from the pre-application conference (Step 2).

: STEP 6: PLANNING COMMISSION REVIEW AND RECOMMENDATION OF PRELIMINARY DEVELOPMENT PLAN AND REGULATING PATTERN BOOK APPLICATION:

The Planning Commission shall review the application, hold a public hearing, and make a recommendation to the City Council. The Planning Commission shall recommend approval, denial, or approval with conditions within 60 days after the initial consideration of the application. The applicant may waive the 60 day time requirement and consent to an extension or extensions.

: STEP 7: CITY COUNCIL REVIEW OF PRELIMINARY DEVELOPMENT PLAN AND REGULATING PATTERN BOOK APPLICATION:

The City Council shall review the application, hold a public hearing, and make a final decision in accordance with the city's ordinance review process generally. In making such a decision, the City Council shall consider but not be bound by, the recommendation of the Planning Commission. The City Council shall approve, deny, or approve with conditions. The City Council may defer the application for a reasonable amount of time if more information is needed to make an informed decision. Within 30 days after approval of a Preliminary Development Plan and Regulating Pattern Book, the zoning map will be amended to show the PUD as a zoning district.

: STEP 8: PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN AND REGULATING PATTERN BOOK APPLICATION:

The Planning Commission shall review the Final Development Plan and Regulating Pattern Book and hold a public hearing. If the Final Development Plan is in substantial compliance with the approved Preliminary Development Plan and Regulating Pattern Book to include any applicable conditions or modifications made by the City Council, the Planning Commission shall vote to approve it.

Note: If the Final Development Plan and Regulating Pattern Book is not in substantial compliance with the approved Preliminary Development Plan, it shall not be approved by the Planning Commission. In such cases, the applicant shall either revise the Final Development Plan and Regulating Pattern Book in order to bring it into conformity with the approved Preliminary Development Plan, or else recommence the Review and Approval Process for new Planned Unit Developments outlined at Chapter 5 of this Article.

Note: The grounds for determining if the Final Development Plan is in substantial compliance with the approved Preliminary Development Plan are provided at 12.607, below.

: STEP 9: SITE DEVELOPMENT PLAN AND/OR SUBDIVISION PLAT SUBMITTAL AND DESIGN REVIEW:

If approved, the Final Development Plan and Regulating Pattern Book, as described in this Article, will become the controlling document for all future development in that established PUD zone. Parcels approved for a PUD will continue to be regulated by the Final Development Plan and Regulating Pattern Book regardless of future subdivision and sale of the property.

- (A) The procedure for Site Development Plan review will be required as established by Article 14-202.2 of the Portland Zoning Ordinance.
 - a. *Note: Site Development Plan approval shall be required for any Planned Unit Development utilizing a Horizontal Property Regime (HPR). Subdivision review is not required for such Regimes as they are exempted from municipal subdivision requirements (See Tennessee Attorney General's Opinion, 01-147).*
- (B) The procedure for Preliminary Subdivision Plat and Final Subdivision Plat review will be required as established in the Portland Subdivision Regulations.
- (C) The procedure for design review shall be required as established by the City of Portland's Zoning Ordinance and Design Guidelines.

CHAPTER 6: SUBMITTAL REQUIREMENTS

: COMPLETE APPLICATION REQUIRED:

A totally complete application shall be required for all PUD submittals. Under no circumstance is the Planning Commission empowered to consider an application unless all submittal requirements herein have been fulfilled. In no circumstance shall the Planning Commission recommend approval of an application "contingent upon" required information being provided.

: COMPLETED PUD CHECKLIST REQUIRED:

It shall be the responsibility of the City Planner to provide the City's official PUD checklist to the applicant during the Preapplication conference. It shall be the responsibility of the applicant to return the signed and completed checklist to the City Planner as part of the PUD application submittal.

: PRELIMINARY DEVELOPMENT PLAN AND REGULATING PATTERN BOOK: OVERALL INTENT:

The overall intent of requiring a Preliminary Development Plan and Regulating Pattern Book is to ensure that the applicant furnishes adequate information so that the Planning Commission and City Council fully understand the scope and impact of the project, its compliance with the Goals and Objectives of this Article, and the proposed project's benefit to the public. The approval of such a plan by the City Council constitutes a vested property right per state law.

It is incumbent on the applicant to furnish sufficient information at the Preliminary Development Plan stage, so that so that elected and appointed officials can have confidence that they fully understand what is proposed prior to any approvals which would convey a vested property right.

: APPLICATION REQUIREMENTS: PRELIMINARY DEVELOPMENT PLAN AND REGULATING PATTERN BOOK:

The following items shall be the minimum required for all applications to be submitted to the Planning Commission for Preliminary Development Plan and Regulating Pattern Book review:

- (A) Completed Application and any required review fees
- (B) Completed PUD Application Checklist
- (C) Completed Letter of Agency
- (D) Current Deed
- (E) Cover sheet addressed from the developer's representative to the City Planner describing how the project conforms to the Purpose and to each of the Objectives found at Chapter 1 of this Article.
- (F) Preliminary Development Plan, which shall be submitted in black and white 24 X 36 format, and which shall contain the following
 - (1) Sheet 1: Title Sheet, containing the following information:
 - (a) Name of Development
 - (b) Name and address of Current property owner
 - (c) Name and Address of Developer (if different)
 - (d) Name and contact information for professionals who prepared plan.
 - (e) Current Zoning
 - (f) Proposed Zoning
 - (g) Property identification information (address, map/parcel, deed information)

- (2) Sheet 2: Plot plan prepared and stamped by a licensed surveyor for overall property depicting existing conditions, boundaries and topography
 - (3) Sheet 3: Overall layout sheet, with:
 - (a) Proposed street network
 - (b) All proposed lots with conceptual building and driveway footprints clearly indicated in relation to proposed setbacks
 - (c) All open space and areas proposed for public use (fire station, park etc)
 - (4) Sheet 4: Preliminary Utilities plan sheet, showing how water, sewer and gas utilities will be run through the site and how they will be connected to existing utilities in the area
 - (5) Sheet 5: Preliminary Landscape plan sheet depicting all open space areas, including buffers
 - (6) Sheet 6: Preliminary Roadway improvements Plan Sheet if improvements within existing public right of way are to be required.
 - (7) Sheet 7: Preliminary Drainage Plan indicating how surface drainage will be controlled and managed
 - (8) Sheet 8: Preliminary Amenities Plan Sheet, containing the following:
 - (a) A description and location of all proposed amenities
 - (b) A table indicating overall useable and passive open space proposed,
 - (c) A specific phasing plan for all amenities and open space improvements.
- (G) Regulating Pattern Book, which shall be submitted in color 11 X 17 format, and which shall contain the following:
- (1) Title sheet
 - (2) Name, address, contact information of applicant and professional architect, planner, or engineer responsible for preparing the Regulating Pattern Book
 - (3) Table of Contents
 - (4) Narrative describing the subject property's context, history and existing conditions
 - (5) Narrative describing the proposed development
 - (6) Table of Exceptions from City Zoning and Subdivision Regulations being sought
 - (7) Listing of permitted uses within the development
 - (8) Proposed density/intensity of project
 - (9) A tabulation of the number of lots which would be allowed under the existing and proposed zoning.
 - (10) Typical lot layout(s) and proposed setbacks
 - (11) Colorized graphic rendering showing all natural features, such as topography, soils, woodlands, wetlands, floodplain, and existing drainage patterns which affect the property
 - (12) Architectural Renderings/Floorplans/Photographs of proposed structures with sufficient clarity to convey the appearance of proposed structures
 - (13) Written description of materials to be used as well as any to be prohibited
 - (14) Amenities renderings, photographs and depictions
 - (15) Signage Plan Sheet
 - (a) For Residential Developments: Horizontal depiction of entryway monumentation and associated landscaping

- (b) For Nonresidential Developments: Horizontal depiction of proposed signage, as well as formal PUD sign policy regarding size, illumination, and materials.
- (16) For projects that include nonresidential or multifamily uses, a photometric lighting plan of the project location and environs complete with light cut sheets and lighting fixtures examples
- (17) Overall Phasing Schedule for the development
- (H) Utility Availability Letter(s), for public water, sewer and natural gas
- (I) Traffic Impact Study (if required by City staff)
- (J) Documentation summary of neighborhood meeting
- (K) Draft Covenants, Conditions, Restrictions

**: FINAL DEVELOPMENT PLAN AND REGULATING PATTERN BOOK:
OVERALL INTENT:**

The intent of the Final Development Plan and Regulating Pattern Book is to incorporate any terms, conditions, or other modifications to the Preliminary Development Plan and Regulating Pattern Book that may have been made by the City Council during their review and approval. In addition, the developer shall ensure that sufficient engineering work shall have occurred to ensure with reasonable certainty that the actual locations of future roads, utilities and other amenities are depicted in what will be their actual locations.

**: MINIMUM APPLICATION REQUIREMENTS: FINAL DEVELOPMENT PLAN AND
REGULATING PATTERN BOOK:**

Following approval of the Preliminary Development Plan and Regulating Pattern Book by the City Council, the developer may make an application to the Planning Commission for Final Development Plan approval. The following items shall be the minimum required for all such applications to be submitted to the Planning Commission for Preliminary Development Plan and Regulating Pattern Book review:

- (A) In final form, all of the information required for the Preliminary Development Plan and Regulating Pattern Book.

**: CONFORMITY OF FINAL DEVELOPMENT PLAN AND REGULATING
PATTERN BOOK WITH APPROVED PRELIMINARY DEVELOPMENT
PLANS:**

The Final Development Plan and Regulating Pattern Book submitted for Planning Commission review and approval shall be in substantial compliance with the approved Preliminary Development Plan. The following criteria shall be utilized in determining whether a submitted Final Development Plan is in conformity with the approved Preliminary Development Plan.

If any of the following occur, the submitted Final Development Plan shall be deemed to be not in conformity:

- (A) The submitted Final Development Plan and Regulating Pattern Book seeks to amend a specific condition that was imposed by the City Council;

- (B) The submitted Final Development Plan and Regulating Pattern Book shows an increase in the number or dwelling units (density) or maximum square footage (intensity) in the case of non-residential PUDs;
- (C) The submitted Final Development Plan and Regulating Pattern Book modifies the location and/or number of the PUDs primary access points;
- (D) The submitted Final Development Plan and Regulating Pattern Book indicates that the overall gross open space or usable open space acreage will be reduced;
- (E) The submitted Final Development Plan and Regulating Pattern Book seeks to modify any development regulations or architectural commitments expressly enumerated in the approved Preliminary Development Plan and Regulating Pattern Book.
- (F) The submitted Final Development Plan and Regulating Pattern Book seeks to obtain an exception from any Subdivision or Zoning standard that was not indicated on the Preliminary Development Plan.

**SUBMITTED FINAL DEVELOPMENT PLAN NOT IN CONFORMITY WITH
APPROVED PRELIMINARY DEVELOPMENT PLAN:**

If the Final Development Plan and Regulating Pattern Book submitted for Planning Commission review is not in conformity with the approved Preliminary Development Plan, the applicant shall have two (2) options:

- (A) Revise the submitted Final Development Plan and Regulating Pattern Book in order to bring it into compliance with the approved Preliminary Development Plan.
- (B) Recommence the Review and Approval Process for new Planned Unit Developments outlined at Chapter 5 of this Article.

CHAPTER 7: PROCEDURE FOR MODIFYING AN EXISTING FINAL DEVELOPMENT PLAN AND REGULATING PATTERN BOOK

12.701: AMENDMENT OF APPROVED PLANNED UNIT DEVELOPMENTS AUTHORIZED:

Following final approval of a Final Development Plan and Regulating Pattern Book, it is possible that as the development of the PUD progresses, modifications to the approved Final Development Plan may be necessary for a variety of reasons.

“Minor” modifications shall only require approval from the Planning Commission. However, “Major” modifications, as defined below, will be subject to further review by the Planning Commission and City Council and will be required to undergo the entire process for PUD approval as enumerated at Chapter 5.

12.702: STAFF APPROVAL OF PUD AMENDMENTS PROHIBITED:

Under no circumstance shall city staff be empowered to approve any modification to any PUD. City staff shall enforce the adopted PUD exactly as approved, and as shown on the approved Final Development Plan and Regulating Pattern Book. Questions related to interpretation should be referred to the Planning Commission by the City Planner if there is disagreement. Any modifications proposed by the developer shall follow the process outlined in this Chapter.

12.703: SUBMITTAL PROCESS FOR PLANNED UNIT DEVELOPMENT AMENDMENTS:

A written request from the developer seeking an amendment to an approved PUD shall be submitted to the Planning Director. The request shall describe the overall effect of the proposed changes, a modified Final Development Plan and Regulating Pattern Book, the reasons for seeking such amendment, and shall provide a written description of how the proposed modifications accomplish the intent of the PUD as originally proposed. Upon receipt of a complete request, the Planning Director will make a written determination on whether the proposed modification is Major or Minor within ten (10) business days.

12.704: THRESHOLDS FOR MAJOR PLANNED UNIT DEVELOPMENT AMENDMENTS:

Any modifications that results in any of the following will be classified as “Major”:

- A. The changes proposed seek to amend a specific condition that was imposed by the City Council;
- B. The proposed amendment results in an increase in the number or dwelling units (density) or maximum square footage (intensity) in the case of non-residential PUDs;
- C. The amendment modifies the location and/or number of the PUDs primary access points;
- D. The amount of gross open space or usable open space is reduced;
- E. Modification any other development regulations or architectural commitments enumerated in the Final Development Plan and Regulating Pattern Book.
- F. The changes proposed seek to obtain an exception from any Subdivision or Zoning standard that was not indicated on the approved Final Development Plan and Regulating Pattern Book.

Modifications not meeting these thresholds shall be deemed “Minor.”

CHAPTER 8: EXPIRATION OF APPROVED PLANS

12.801: EXPIRATION OF APPROVED PRELIMINARY DEVELOPMENT PLAN AND REGULATING PATTERN BOOK:

If the applicant has not obtained Final Development Plan approval from the Planning Commission within three (3) years of the approval of a Preliminary Development Plan, the Planning Commission, consistent with the Vested Property Rights Act, Tenn. Code Ann. § 13-4-310, shall give notice by certified mail to the owner and applicant who requested the PUD and shall schedule a public hearing to take any of the following actions:

- A. Recommend extending, removing, or modifying the schedule for development;
- B. Recommend amendments to the Preliminary Development Plan and Regulating Pattern Book;
- C. Recommend revocation of the Preliminary Development Plan and Regulating Pattern Book approval; and/or
- D. Recommend rezoning of the property to its former zoning classification.

After receiving the Planning Commission's recommendation(s), and providing any notice required by statute and City regulations, the City Council shall hold a public hearing and render a decision.

12.802: EXPIRATION OF APPROVED FINAL DEVELOPMENT PLAN AND REGULATING PATTERN BOOK:

If the applicant has not entered into a development agreement with the City Council and has not commenced site preparation within five (5) years of the City Council's approval of a Preliminary Development Plan and Regulating Pattern Book, the Planning Commission, consistent with the Vested Property Rights Act, Tenn. Code Ann. § 13-4-310, shall give notice by certified mail to the owner and applicant who requested the PUD and shall schedule a public hearing to take any of the following actions:

- A. Recommend extending, removing, or modifying the schedule for development;
- B. Recommend amendments to the Final Development Plan and Regulating Pattern Book;
- C. Recommend revocation of the Final Development Plan and Regulating Pattern Book; and/or
- D. Recommend rezoning of the property to its former zoning classification.

After receiving the Planning Commission's recommendation(s), and providing any notice required by statute and City regulations, the City Council shall hold a public hearing and render a decision.

CHAPTER 9: OTHER ISSUES

12.901: REAPPLICATION IF DENIED:

If an application for a PUD has been denied by the City Council, no application for substantially the same PUD may be filed for a period of one (1) year from that date of denial. Whether the application is for “substantially the same PUD” shall be within the discretion of the Planning Commission.

12.902: ADDITIONAL INFORMATION MAY BE REQUIRED:

By their very nature, each PUD is unique. As such, there may arise circumstances in which information may be needed that is not envisioned by these regulations. At any stage of the PUD review and approval process, the planning staff, Planning Commission, or City Council may require additional information to be submitted which may be necessary to make a determination regarding the PUD application.

12.903: NOTICE AND OTHER PROCEDURAL REQUIREMENTS:

Standards for public notice and advertisement contained in State law and City Regulations shall be met for all applications. Any additional notice requirements provided by this Article are in addition to any required by the City and by State law.

12.904: PROJECT REPRESENTATION REQUIRED:

It shall be the developer’s responsibility to ensure that persons versed in the proposed PUD’s specifics and authorized to speak and make commitments on behalf of the developer are present at every meeting and hearing required by this article. Failure of the developer or developer’s assigned agent to attend any hearing or meeting required by this article shall constitute grounds for, at minimum, a deferral of the application, or, at maximum, a negative recommendation or denial of the application.

APPENDIX A:

City of Portland Planned Unit Development Application Checklist

Please mark Yes (Y), No (N) or Not Applicable (N/A) for each item in the right hand column.

| | | |
|---|--|--|
| Project Name: | | |
| Project Address & Map and Parcel ID: | | |
| Baseline Information | | |
| 1 | Completed PUD Application and any required fees | |
| 2 | Cover letter summarizing project and addressing how application conforms to Purpose and Objectives for Planned Unit Developments (Article 12, Chapter 1) | |
| 3 | Traffic Impact Study (If required by City staff) | |
| 4 | Utility Availability Letters for Public Water, Sewer, Natural Gas | |
| 5 | Current Deed | |
| 6 | Completed Letter of Agency | |
| 7 | Summary of required neighborhood meeting | |
| 8 | Draft set of Covenants, Conditions and Restrictions for development | |
| 9 | Population Information, to include projected adult and school aged population at build out. | |
| 10 | Preliminary/Final Development Plan, with all required information below | |
| 11 | Regulating Pattern Book, with all required information below | |
| Preliminary/Final Development Plan: Submit in 24X36 Black and White Format | | |
| 1 | Sheet 1, Title Sheet, containing: | |
| a | Name of Development | |
| b | Name and Address of Current Property Owner | |
| c | Name and Address of Developer (if different) | |
| d | Name, address, email and phone number of professionals who prepared plan | |
| e | Identifying information for property (Map and Parcel ID, Record Book & Page, Address) | |
| f | Current Zoning | |
| g | Proposed Zoning | |
| 2 | Sheet 2: Plot plan for overall property, depicting existing conditions | |
| 3 | Sheet 3: Overall layout sheet, with: | |

| | | |
|--|--|--|
| a | Proposed street network | |
| b | All proposed lots with conceptual building and driveway footprints clearly indicated in relation to proposed setbacks | |
| c | All proposed open space and areas proposed for public use (fire station, park etc) | |
| 4 | Sheet 4: Preliminary/Final Utilities plan sheet, showing how water, sewer and gas utilities will be run through the site and how they will be connected to existing utilities in the area. | |
| 5 | Sheet 5: Preliminary/Final Landscape plan sheet depicting all open space areas, including buffers | |
| 6 | Sheet 6: Preliminary/Final Roadway improvements Plan Sheet if improvements within existing public right of way are to be required. | |
| 7 | Sheet 7: Preliminary/Final Grading and Drainage Plan indicating how surface drainage will be controlled and managed. | |
| 8 | Sheet 8: Preliminary/Final Amenities Plan Sheet, incorporating the following information at minimum: | |
| a | A description and location of all proposed amenities. | |
| b | A table indicating overall useable and passive open space proposed | |
| c | A specific phasing plan for all amenities and open space improvements. | |
| Preliminary/Final Regulating Pattern Book: Submit in Color 11X17 Format | | |
| 1 | Title sheet | |
| 2 | Name and Address of Developer | |
| 3 | Name, address, contact information of applicant and professional architect, planner, or engineer responsible for preparing the Regulating Pattern Book. | |
| 4 | Table of Contents | |
| 5 | Narrative describing the subject property's context, history and existing conditions | |
| 6 | Table of Exceptions from City Zoning and Subdivision Regulations being sought | |
| 7 | Listing of permitted uses within the development | |
| 8 | Proposed density/intensity of project | |
| 9 | A tabulation of the number of lots which would be allowed under the existing zoning. | |
| 10 | Typical lot layout(s) and proposed setbacks | |
| 11 | Colorized graphic rendering showing all natural features such as topography, soils, woodlands, wetlands, floodplain, and existing drainage patterns which affect the property | |
| 12 | Architectural Renderings/Floorplans/Photographs of proposed structures with sufficient clarity to convey the appearance of proposed structures | |
| 13 | Written description of materials to be used | |
| 14 | Amenities renderings, photographs and depictions | |
| 15 | Signage Plan Sheet containing the following: | |
| a | For Residential Developments, Horizontal depiction of entryway monumentation and associated landscaping | |
| b | For Nonresidential Developments, Horizontal depiction of proposed signage, as well as formal PUD sign policy regarding size, illumination, and materials. | |

| | | |
|--------------------------|--|--|
| 16 | Photometric lighting plan of the project location and environs complete with light cut sheets and lighting fixtures examples (Note: for projects that include nonresidential or multifamily uses only) | |
| 17 | Overall Phasing Schedule for the development | |
| Other Information | | |
| 18 | All sheets must be stamped and sealed by design professionals licensed to do such design work in the State of Tennessee. | |

I do hereby submit the attached application for review and recommendation by the Portland Municipal Planning Commission. The appropriate copies of the plan have been provided. I have reviewed the above checklist and do believe that all the information required has been presented.

Date

Signature of Individual Submitting Plan

*Any items checked Not Applicable by the submitter that are deemed applicable by the City staff will result in the entire submittal being rejected as incomplete. If in doubt about the applicability of a particular item, contact the City Planning Office.

Please note: No plan will be reviewed until all information required is presented in a full and complete manner.

APPENDIX B:

PUD REVIEW/APPROVAL PROCESS SUMMARY

Step 1: Preliminary Concept Meeting: First step of process. May occur any time.

Step 2: Pre-application Conference: Must be held within 90 days of Step 1

Step 3: Neighborhood Meeting: Must be held within 30 days of Step 2, but before submittal of Preliminary Development Plan.

Step 4: Optional Conceptual Review by Planning Commission: Must be conducted after Step 3, but before submittal of Preliminary Development Plan (Step 5).

Step 5: Preliminary Development Plan and Regulating Pattern Book Application: Must be submitted within 90 days of Step 2 (pre-application conference).

Step 6: Planning Commission Review and Recommendation of Preliminary Development Plan and Regulating Pattern Book Application: Planning Commission recommendation due within 60 days of initial consideration of the application. Applicant may waive this requirement.

Step 7: City Council Review of Preliminary Development Plan and Regulating Pattern Book Application: No time limits. Council may make reasonable deferrals to obtain needed information.

Step 8: Planning Commission Review of Final Development Plan and Regulating Pattern Book Application: Applicant must obtain Final Development Plan approval within 3 years of Council approval of Preliminary Development Plan.

Step 9: Site Plan and Subdivision Plat Submittal: Site Plan and/or Preliminary Plat may be submitted any time following Final Development Plan approval, provided that not more than 5 years has lapsed since the time of Council's approval of the Preliminary Development Plan.