

AN ORDINANCE TO AMEND ARTICLE XIII A OF
CHAPTER 50 OF TITLE V OF THE CODE OF THE
CITY OF EAST GRAND RAPIDS

(A) Version as
introduced by
City Commission
1-21-02

The City of East Grand Rapids ordains:

Section 1. Article XIII A of Chapter 50 of Title V of the Code of the City of East Grand Rapids is amended in its entirety to read as follows:

“Article XIII A

PUD - Planned Unit Development

Sec. 5.135 Description, Purpose, Intent, and Qualification

- (a) Description and Purpose. The use, area, height, bulk, and placement regulations of this chapter are primarily applicable to the usual situation of one principal building on a lot. In certain developments, these requirements might result in situations less in the interest of public health, safety, and general welfare than if a controlled degree of flexibility were allowed. The PUD Planned Unit Development is intended to permit and control the development of preplanned areas for various compatible uses allowed by this zoning chapter and for other exceptional uses not so provided. It is the intent of this article to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. A mixture of housing types and nonresidential service and commercial uses not otherwise allowed in combination by this code and which may require special treatment with regard to setbacks, yards, height, and landscaping may also be allowed.
- (b) Intent. It is intended that uses in a PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

Under this article, all proceedings shall be conducted with due consideration for maintenance of reasonable conditions regarding omission and transmission of injurious or obnoxious noise, fire or explosion hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, effect on property values, light and air, sanitation, surface and groundwater quality, and other similar considerations having an effect on

public health, safety, and the general welfare of people in the surrounding area.

- (c) Qualification. The tract of land for which a PUD application is received must be in either single ownership or the subject of an application filed jointly by the owners of all properties covered by the PUD. An option holder must have the consent of the underlying property owner. The proposed uses of the PUD must be consistent with the City of East Grand Rapids master plan. All PUDs shall be served by public water and sanitary sewer facilities. The PUD must provide for safe pedestrian access within the PUD and to adjacent properties. The PUD should provide for coordinated architectural styles and building relationships.

Sec. 5.136 Permitted Uses

Any use permitted in any district, including uses which may be approved upon special application to and approval of the board of zoning appeals or the planning commission under the provisions of this chapter, may be permitted in a planned unit development provided that all of the objectives and standards of this article are determined to be met and there is compliance with the procedures of this article.

Sec. 5.137 Objectives

The following objectives shall be met, if applicable, by any application for a PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive long-range planning and development.

- (a) To provide more desirable living, shopping, and working environments by preserving as much natural character of the property as possible, including, but not limited to, open space, trees, brooks, ponds, floodplains, hills, and similar natural assets.
- (b) To encourage the provision of open space and the development of recreational and other support facilities in a generally central location within reasonable distance of all the living units.
- (c) To encourage developers to use a more creative approach to the development of areas.
- (d) To encourage underground utilities which can be more efficiently designed when master planning a larger area.
- (e) To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the city.

- (f) To promote flexibility in design and permit planned diversification in the location of structures.
- (g) To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities.
- (h) To combine and coordinate architectural styles, building forms, and building relationships within a planned unit development.
- (i) To ensure a quality of construction commensurate with or higher than other developments within the city.
- (j) To provide for integrated, safe, and abundant pedestrian access within the PUD and to adjacent properties.
- (k) To allow a maximum density for any residential planned unit development of 8 family units per acre. The maximum number of family units in a residential apartment or condominium building shall not exceed 12.

Sec. 5.138 Procedures

- (a) All applications for a planned unit development shall be considered as amendments to this zoning chapter and shall be consistent with the provisions of Article XVI. The application shall include a site plan and narrative in accordance with the requirements of Article XIII B.
- (b) A preapplication conference may be held with city staff for the purpose of determining the eligibility of the request for consideration as a PUD. A request for a preapplication conference shall be made to the zoning administrator. As part of the preapplication conference, the applicant shall submit five copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site. The city shall advise the applicant of the conformance of the PUD concept with the intent and objectives of a PUD in the city, whether the concept qualifies under the requirements of this article, and whether the general concept is substantially consistent with the city's master plan. No formal action shall be taken at a preapplication conference nor shall statements made at the preapplication conference be considered binding commitments or an approval of the concept.
- (c) Applicants seeking approval of a PUD district shall submit a complete application for review and a preliminary development plan to the zoning administrator, who shall schedule a date and time for a public hearing

and planning commission review. Such application shall include the following:

- (1) A completed application form.
- (2) All required fees.
- (3) A narrative statement describing:
 - (A) The objectives of the PUD and how it relates to the intent of the PUD district.
 - (B) The relationship of the PUD to the city master plan.
 - (C) Phases of the development and approximate time frame for each phase.
 - (D) Proposed deed restrictions, covenants, or other legal instruments to be used within the PUD.
 - (E) Anticipated start and completion of construction.
 - (F) Location, type, and size of areas to be dedicated for common open space.
 - (G) Ten copies of the preliminary development plan. If the PUD is to be built in phases, the preliminary development plan shall show all phases. The preliminary development plan shall contain the following:
 - (i) Name of development, applicant's name, name and address of firm and individual who prepared the plan, scale, and north arrow.
 - (ii) Property lines, dimensions of all property lines, and size of the PUD in acres.
 - (iii) Existing zoning and land use of all abutting properties.
 - (iv) Existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes, and similar features.
 - (v) Existing buildings on the site.
 - (vi) Proposed uses and their approximate locations.

- (vii) Right-of-way and pavement edges of existing streets abutting the PUD.
- (viii) Approximate location of proposed access drives and streets within the PUD.
- (ix) Proposed method of providing water, sanitary sewer, and stormwater drainage facilities.
- (x) Layout and typical dimensions of proposed lots.
- (xi) Approximate phases of development.
- (xii) Proposed residential density by area or phase.

Upon receipt of an application for PUD approval, the zoning administrator shall cause notice of a public hearing to be given in accordance with the requirements of this chapter and state law.

Following notice, the planning commission shall hold a public hearing on the proposed PUD for the purpose of receiving public comment on the application. Following the public hearing, the planning commission shall review the PUD request and preliminary development plan and shall make a recommendation to the city commission to approve, approve with conditions, or deny the PUD rezoning. The planning commission shall include the reasons for its recommendation and identify those specific conditions, if any, it considers necessary.

After receiving the recommendation of the planning commission, the city commission shall review the application package, the preliminary design plan, the record of the planning commission proceedings, and the recommendation of the planning commission. The city commission shall also hold a public hearing in accordance with the provisions of Article XVI. The city commission shall then make its decision based upon the objectives of Section 5.137 and the standards of Section 5.139 as to approval, approval with conditions, or denial. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary development plan to the city. Upon receipt by the city of the applicant's written acceptance of the conditions of approval and a revised preliminary development plan incorporating all required conditions and changes, the rezoning shall become effective.

Within 12 months of the city commission's approval of the PUD district and a preliminary development plan, the applicant shall submit a request for final development plan approval. Such application shall consist of the following:

- A completed application form;
- Payment of all required fees;
- A written response to the findings, comments, and conditions, if any, from the city commission's review of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items;
- A site plan containing all the requirements of Article XIII B.

If the plan consists of phases, then the above information is only required for the specific phases being presented for final approval. Each subsequent phase shall be reviewed in the same manner. The planning commission shall review the final development plan in relation to its conformance with the preliminary development plan and the conditions, if any, of the PUD district approval. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review. If the final development plan is consistent with the approved preliminary development plan, the planning commission shall review the final plan in accordance with the objectives of Section 5.137 and the criteria of Section 5.139. A table shall be provided on the final site plan which specifically details all deviations from the underlying zoning area, including height and setback regulations, offstreet parking regulations, and other provisions which would otherwise be applicable to the uses and development proposed in the absence of the PUD rezoning. The planning commission shall prepare a record of its findings and shall make a recommendation to the city commission to approve, approve with conditions, or deny the final development plan. The city commission shall then act on the final development plan.

No part of a PUD plan may be appealed to the zoning board of appeals. This shall not prevent an individual lot owner from seeking a variance following the final approval of the PUD.

Sec. 5.139 Standards for Approval

A PUD shall only be approved if it complies with each of the following standards as well as applicable standards established elsewhere in this chapter:

- (a) The proposed PUD complies with all qualifying conditions of Section 5.135.
- (b) The uses conducted within the proposed PUD are consistent with the city's master plan.

- (c) The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
- (d) The PUD shall not change the essential character of the surrounding area.
- (e) The PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- (f) The PUD shall not place demands on public services and facilities in excess of current capacity.

Prior to the issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the city in recordable form setting forth the applicant's obligations with respect to the PUD. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate by reference the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the city commission. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase, and the improvements to be undertaken in each phase. The agreement shall also establish the remedies of the city in the event of a default by the applicant in carrying out the PUD and shall be binding on all successors and interests of the applicant. All documents shall be executed and recorded in the office of the Kent County Register of Deeds.

Changes to an approved PUD shall be permitted only under the following circumstances:

- (a) The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD. Minor changes may be approved by the zoning administrator upon determining that the proposed revisions will not alter the basic design and character of the PUD nor any specified conditions imposed as part of the original approval. Minor changes include the following:
 - (1) Reduction of the size of any building and/or sign.
 - (2) Movement of buildings or signs by no more than 10 feet.
 - (3) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.

- (4) Changes in floor plans of up to 5% of the total floor area which do not alter the character of the use or increase the amount of required parking.
 - (5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or access locations or design.
 - (6) Changes required or requested by the city, Kent County, or other state or federal regulatory agency to conform with laws or regulations.
- (b) A proposed change that the zoning administrator determines is not minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.

Sec. 5.140-A PUD Expiration

Each development shall be under construction within one year after the date of approval of the PUD final development plan except as noted herein. The city commission may grant one extension of up to an additional 1-year period if the applicant applies for such extension prior to the expiration of the PUD and provided that the applicant presents reasonable evidence that such development has encountered unforeseen difficulties beyond the control of the applicant and the PUD requirements and standards, including those of the zoning ordinance and the master plan that are reasonably related to said development have not changed. Upon the expiration of the 1-year time frame or any extension thereof without construction underway, the final development plan shall be null and void. If a PUD site plan expires, the property shall remain zoned PUD unless the city rezones the property to a different zoning designation. If any applicant thereafter wants to develop a PUD on the property, the city commission shall determine whether the new PUD application is substantially similar to the PUD project for which the prior PUD site plan had been approved. If the city commission determines that the new PUD application is substantially similar to the PUD project previously approved for the property, the new PUD proposal may utilize the existing PUD zoning designation for the property contingent upon the project receiving approval of a new PUD final site plan. If the city commission determines that the new PUD application is not substantially similar to the last PUD project approved for the property, a new PUD application must be filed and the entire process of Article XIII A must be followed."

Section 2. This Ordinance shall become effective on March _____, 2002.

Section 3. Notice of adoption of this Ordinance shall be published within ten (10) days after its enactment by publication of the following digest, summary, or statement of purpose of the

Ordinance as provided by Chapter VII, Section 7.5 of the Charter of the City of East Grand Rapids.

NOTICE OF ADOPTION OF ORDINANCE BY THE CITY OF EAST GRAND RAPIDS

Notice is hereby given that the City Commission of the City of East Grand Rapids adopted a new Article XIII A of the City Code. The purpose of this Ordinance is to allow and regulate the use of planned unit developments (PUDs) in the City. Planned unit developments are developed pursuant to an approved site plan for the entire site and may include various mixed uses not otherwise allowed in a single zoning district. The Ordinance updates the City's existing provisions regarding PUDs to include a more sophisticated review process and to require additional information from the developer. The headings of the major sections of the Ordinance are as follows:

- Sec. 5.135 Description, Purpose, Intent, and Qualification
- Sec. 5.136 Permitted Uses
- Sec. 5.137 Objectives
- Sec. 5.138 Procedures
- Sec. 5.139 Standards for Approval
- Sec. 5.140 PUD Agreement and Changes to PUD
- Sec. 5.140-A PUD Expiration

The full text of the new Article is available for inspection by and distribution to the public at the office of the City Clerk. No further or additional publication of this Chapter is required or contemplated.

CITY OF EAST GRAND RAPIDS

By _____
Karen K. Brower, City Clerk

CHAPTER 50

ZONING

ARTICLE XIII.A. PUD PLANNED UNIT DEVELOPMENT

Section:

- 5.135. Description and purpose
- 5.136. Permitted uses
- 5.137. Objectives
- 5.138. Maximum density
- 5.139. Procedures
- 5.140. Basis of determination
- 5.140-1. PUD expiration

tenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, fire or explosion hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting, influence, effect on property values, light and air, overcrowding of persons, sanitation, general appearance of the area, surface and ground water quality, and other similar considerations having an effect on public health, safety, and general welfare of the people of the surrounding area. (1982 Code §5.135)

5.135. **Description and purpose.** The use, area, height, bulk and placement regulations of this chapter are primarily applicable to the usual situation of one (1) principal building on a lot. In certain large developments, these requirements might result in situations less in the interest of public health, safety, and general welfare than if a controlled degree of flexibility were allowed. The PUD planned unit development is intended to permit and control the development of preplanned areas for various compatible uses allowed by this zoning chapter and for other exceptional uses not so provided.

5.136. **Permitted uses.** Any use permitted in any district, including uses which may be permitted upon special application to and approval of the board of zoning appeals or the planning commission under the provisions of this chapter, may be permitted in a planned unit development provided that all of the objectives and standards of this article are determined to be met and the procedures of this article are complied with. (1982 Code §5.136)

It is intended that uses in a PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

5.137. **Objectives.** The following objectives shall be met by any application for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development.

Under this article, all proceedings shall be conducted with due consideration for main-

- A. To provide more desirable living, shopping, and working environments by preserving as much of the natural character of the property as possible, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
- B. To encourage the provision of open space and the development of recreational and, where included in the plan, other support facilities in a generally central location within reasonable distance of all living units.
- C. To encourage developers to use a more creative imaginative approach to the development of areas.
- D. To encourage underground utilities which can be more efficiently designed when master planning a larger area.
- E. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the city.
- F. To promote flexibility in design and permit planned diversification in the location of structures.
- G. To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities.
- H. To combine and coordinate architectural styles, building forms, and building relationships within the planned unit development.

- I. To insure a quality of construction commensurate with other developments within the city. (1982 Code §5.137)

5.138. **Maximum density.** The maximum density for any residential planned unit development is eight (8) units per acre. The number of family units in a residential apartment or condominium building shall not exceed twelve (12). (1982 Code §5.138)

5.139. **Procedures.** All applications for planned unit development shall be considered as amendments to this zoning chapter and consistent with the provisions of Article XVI and shall include a site plan and narrative in accordance with the requirements of Article XIII B.

The city planning commission is designated as the body which will review and approve planned unit development requests under the procedures established by Section 4b of Michigan Public Act 207 of 1921, as amended, (MCL Section 125.584(b)), hold the hearings thereon, make its decision as to approval, denial, or approval with conditions, of the request, and submit its reports, summaries of comments received at the public hearings, minutes of all proceedings, and all documents related to the PUD requests to the city commission for its consideration in making final decisions thereon. (1982 Code §5.139; 1993 Code)

5.140. **Basis of determination.** Prior to approval of a planned unit development application, the planning commission shall ensure that the standards specified in this section, as well as applicable standards established

elsewhere in this chapter, shall be satisfied by the completion of the planned unit development under consideration.

- A. General standards. The planning commission shall review the particular circumstances of the planned unit development application under consideration in terms of the following standards and shall recommend approval of a planned unit development only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this chapter:
1. The planned unit development shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 2. The planned unit development shall not change the essential character of the surrounding area.
 3. The planned unit development shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety; or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
 4. The planned unit development shall not place demands on public services and facilities in excess of current capacity.
- B. Conditions. The planning commission may recommend conditions with the approval of a planned unit development which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable

standards contained in this chapter. Such conditions shall be considered an integral part of the planned unit development approval and shall be enforced by the building inspector. (1982 Code §5.140)

5.140-1. **PUD expiration.** Consistent with section 5.148 of this chapter, if a PUD development is not under construction within one (1) year after the date of final PUD site plan approval by the city commission, and if the commission has not granted a sixty (60) day extension or said extension has expired, the PUD site plan shall be null and void. If a PUD site plan expires, the property shall remain zoned PUD unless the city rezones the property to a different zoning designation. If any applicant thereafter wants to develop a PUD on the property, the city commission shall determine whether the new PUD application is substantially similar to the PUD project for which the prior PUD site plan had been approved. If the city commission determines that the new PUD application is substantially similar to the PUD project previously approved for the property, the new PUD proposal may utilize the existing PUD zoning designation for the property contingent upon the project receiving approval of a new PUD site plan. If the city commission determines that the new PUD application is not substantially similar to the last PUD project approved for the property, the new PUD application must go through both the PUD rezoning and the PUD site plan approval process. (Ord., 2-28-92)