

CITY OF ROCHESTER, NEW HAMPSHIRE

Excerpt from 2008 zoning ordinance. PUD's are no longer allowed in Rochester

42.32 PLANNED UNIT DEVELOPMENT.

- (a) **Authority.** This section is adopted pursuant to New Hampshire RSA 674:21 Innovative Land Use Controls subsection I. (e) Planned unit development.

- (b) **Purpose.** A Planned Unit Development (PUD) allows a landowner to propose his/her own development project largely independent from current land use regulations otherwise applicable to that property. A PUD master plan is akin to a special zoning district designation for a particular tract of land in terms of uses, dimensions, and other development standards. (Note: every reference to “master plan” in this PUD ordinance refers to the PUD master plan rather than the City of Rochester Master Plan, except where the latter is specifically referred to as such.)

The purpose of this ordinance is to promote flexibility in large-scale development by considering project proposals based upon a comprehensive, integrated and detailed plan rather than the specific constraints applicable to piecemeal lot-by-lot development under conventional zoning. A PUD should improve the quality of new development by encouraging aesthetically attractive features and promoting quality site and architectural design.

- (c) **Process.** The process for administering a Planned Unit Development is as follows.
 - (1) Due to the complexity inherent in PUD's, prior to developing a detailed PUD proposal or submitting a formal application applicants are required to: a) meet with an appointed subcommittee from the Planning Board to discuss their ideas; and b) hold a conceptual discussion with the Planning Board.
 - (2) The applicant submits a formal PUD application (also known as the proposed PUD master plan) as specified elsewhere in this section.
 - (3) At its option, the Planning Board may enlist the services of any capable professionals to review the proposed PUD, with the cost for those services to be paid by the developer.
 - (4) The Planning Board holds a public hearing on the PUD application and determines whether or not it is complete, in accordance with this ordinance. The board must take final action on the application within three calendar months of a finding of completeness. This timeframe may be extended by mutual agreement between the Planning Board and the applicant.
 - (5) The applicant must submit a formal yield plan in a format acceptable to the Planning Board. The yield plan is the theoretical layout/design/plat showing

the number of lots/units/level of development and number of bedrooms (if appropriate) that could reasonably be construed to be approvable and buildable under the existing, conventional zoning. The intent is not for the developer to spend significant funds to create a detailed, engineered yield plan (as it will not be built) but rather to present a reasonably realistic baseline level of development against which the Planning Board can compare the density proposed for the PUD. In most cases, this baseline level of development should be considered fluid and approximate. The Planning Board must vote to endorse the yield plan as meeting the objective of this paragraph.

- (6) All pertinent departments of the City must receive a copy of the fiscal/community services impact study. Representatives from those departments must sign off on the PUD application with their comments or be given a reasonable opportunity to sign off.
- (7) The Planning Board approves, denies, or approves with conditions the PUD application. An applicant may appeal any such decision of the Planning Board in the same manner specified for appeals for site plan determinations and subdivision determinations (RSA 677:15).
- (8) The Planning Department maintains a record of all approved PUD master plans. The PUD is demarcated on the official Zoning Map of the City (over the underlying zoning district) and labeled based on the order in which the master plan was approved (as PUD-1, PUD-2, etc.).
- (9) Subsequent to the PUD approval, the applicant submits a separate site plan application and/or subdivision application for development of the tract in accordance with the master plan. In the event of a conflict between the terms of the approved master plan and the terms of the site plan regulations or subdivision regulations, the terms of the approved master plan shall control.
- (10) Any development on the subject property must be consistent with the approved master plan as determined by the Planning Board. While it is the master plan, rather than the underlying zoning district, that regulates development of the subject tract, there shall remain an underlying zoning designation for the tract at all times.
- (11) In the event active and substantial development or building has not begun on the site by the owner or the owner's successor-in-interest in accordance with the approved master plan within four years after the date of approval, or in accordance with other specific terms of the approval, then the master plan shall be deemed to have expired and the underlying zoning shall then control development of the land. Landowners may apply to the Planning Board for extensions of this time period for good cause shown.

- (12) Landowners may apply to amend all or a portion of an approved PUD following the same process applicable to the establishment of a PUD. A landowner may extinguish a PUD by notifying the Planning Board in writing that he/she does not intend to utilize the PUD.

(d) **PUD Master Plan.**

- (1) In devising the PUD master plan, subject to specific limitations, guidelines, and objectives stated elsewhere in this ordinance, there is flexibility in the selection of land uses, density, setbacks, buffers, building heights, lot sizes, lot dimensions, parking requirements, and most site design and development standards contained in the Zoning Ordinance, Site Plan Regulations, Subdivision Regulations.
- (2) The master plan is composed of: a) all of the elements submitted by the applicant which describe the project including a land plan (drawing), land use list, PUD application, narrative, architectural guidelines (if applicable), and other development guidelines; and b) any additions, deletions, modifications, and/or clarifications stipulated by the Planning Board in its approval.
- (3) The land plan delineates one or more land use areas. An accompanying land use list gives a designation for each land use area specifying approximate acreage, types of uses, density and any other development standards peculiar to that area.

(e) **Basic Requirements.** The following requirements apply.

- (1) Location. PUD's are permitted only in the Agricultural, Residential-1, and Residential-2 zoning districts. They are permitted on one or more lots, or portions of lots, of land.
- (2) Tract size. The minimum area required for a PUD shall be seventy-five (75) contiguous acres of land. Where portions of the tract are separated by a road, road right-of-way, utility, waterway, or another like element, the land shall be deemed contiguous unless the intervening feature is of such a nature that the Planning Board determines that the land could not function effectively as a PUD.
- (3) Ownership. The PUD shall be under unified ownership or control at the time of application. However, the tract may be subsequently subdivided consistent with the terms and conditions of the approved master plan. Multiple parties may own, manage, and/or develop various components of the PUD provided that the overall PUD remains integrated.

- (f) **Permitted Uses.** The following uses may be proposed for inclusion in a PUD. However, no use is permitted in a PUD unless specifically approved by the Planning Board as part of the master plan.
- (1) Any residential use(s) proposed by the applicant which, as reasonably determined by the Planning Board, meet(s) the requirements and objectives of this ordinance. These may include dwelling units in the following forms:
 - (A) Single-family detached;
 - (B) Duplexes;
 - (C) Triplexes;
 - (D) Fourplexes;
 - (E) Rowhouses/townhouses;
 - (F) Attached or detached condominium units;
 - (G) Multi-family units;
 - (H) Housing for persons fifty-five (55) years of age and over.
 - (2) Any uses that are permitted in the underlying zoning district, either by right, special exception, or conditional use permit (at such time as this procedure may be established) except for those uses specifically prohibited below; any uses that are allowed in the underlying zoning district under an existing permit or as existing nonconforming uses.
 - (3) Any uses that are customarily accessory to uses approved in the PUD Master Plan.
 - (4) **Nonresidential Uses.** With the exception of those uses specifically prohibited in (5), below, any nonresidential use(s) proposed by the applicant which meet(s) the requirements and objectives of this ordinance (as reasonably determined by the Planning Board) may be approved. However, in the event that the site will not be served by municipal sewer, uses and intensity of nonresidential uses shall be determined in accordance with soils based lot sizing. Nonresidential uses should be compatible in scale and design with residential uses, be attractive and low key (in terms of building design, signage, lighting, and treatment of parking), and have a strong pedestrian orientation. The types of non-residential uses compatible with a PUD include (but are not limited to) the following:
 - (A) Community function halls;
 - (B) Neighborhood scale commercial uses such as convenience stores, craft store, drug stores, restaurants, beauty shops, tailors, laundromats, banking establishments;
 - (C) Professional offices;

- (D) Medical care uses, including medical care office buildings;
- (E) Day care facilities for adults and children;
- (F) Other civic uses such as schools, government offices, and churches;
- (G) Inns and bed and breakfasts;
- (H) Indoor and outdoor recreation facilities; and
- (I) Sales office for the sale or rental of property in the PUD;

(5) Prohibited uses and designs. The following uses and designs are not permitted in a PUD unless they are already allowed in the underlying zoning district under an existing permit or as existing non-conforming uses: commercial telecommunication towers/wireless communications facilities as a primary use, any industrial use, warehousing or storage as a primary use, automobile/vehicle dealerships (new or used), any individual retail sales or service operation with a building footprint exceeding 20,000 square feet, gasoline stations, any restaurant with a drive up window, and internally illuminated signage.

(g) **Standards of Development.** The following standards shall apply to all PUD's.

- (1) At least twenty percent (20%) of the total acreage of the tract which is deemed to be buildable land or forty percent (40%) of the total gross acreage, whichever is greater, must be set aside as permanent, protected open space. For the purpose of this provision, buildable land is equal to the gross tract acreage minus acreage of all jurisdictional wetlands, streams, ponds, areas with slopes of 25% or greater, and existing utility easements. Plans for ownership and maintenance of all open space areas must be determined at the time of either master plan approval or site plan/subdivision approval.
- (2) No more than fifty (50%) percent of the PUD site, excluding open space, shall be devoted to parking, streets, buildings, and accessory structures, except in the case of a bona fide traditional neighborhood development.
- (3) Off-street parking and loading shall comply with the Rochester Zoning Ordinance for each proposed use. However, the Planning Board may grant waivers for parking if the Board finds that waivers will be compatible with the design and purposes of the PUD.
- (4) All utilities shall be located underground, unless the Planning Board determines that significantly unfavorable site conditions warrant above

ground installation.

(5) Maximum allowable density.

(A) If serviced by municipal sewer then the maximum allowable number of dwelling units is the greater of:

- (i) 1-1/4 times the number of lots shown in the approved yield plan (example: if 100 lots are shown in the yield plan then up to 125 dwelling units could be established); or
- (ii) 1-1/2 times the number of bedrooms shown in the approved yield plan. The Planning Board will generally assume 3 bedrooms per detached single family house, however, it must be demonstrated in the yield plan that the land and soils would support that many bedrooms. (Example: 100 lots are shown in the yield plan and demonstrated to support 3 bedrooms each for a total of 300 bedrooms. Thus, up to 450 bedrooms could be established to be distributed over x units, as appropriate.)

It is emphasized that these maximums are indeed maximums and should not be assumed to be allowable by right. Approval of this number of dwelling units would only be permitted at the sole discretion of the Planning Board subject to its consideration of the criteria established in this PUD ordinance.

In determining appropriate density, in addition to other criteria here, the Planning Board shall pay special attention to the amount of buildable land contained on the tract as determined or reasonably estimated in the submission materials). The commercial uses delineated above may be located in a flexible spatial environment, assuring compatibility with residential uses and with the overall development design, provided that non-residential uses do not exceed 25% of the gross tract area of the PUD.

OR

(B) If not serviced by municipal sewer system:

In the absence of a municipal wastewater system, maximum density within any PUD shall meet the following area requirements to insure groundwater quality protection. These requirements are specified in the Appendix - Soil Types for Establishing Lot Size. Each lot shall have a soil carrying capacity of one or greater. The applicant shall

submit calculations, which document the soil carrying capacity for each lot in determining the maximum allowable density.

This requirement is subject to the following modifications:

- (i) Where more than one soil type is found on a lot, a soil carrying capacity of those soils occurring on the lot shall be used to determine the minimum lot size.
- (ii) Wetlands may be used as part of the computed lot size according to the following:

- 1. Areas designated as poorly drained soils (type B hydric) may be utilized to fulfill the minimum lot size requirement provided that a contiguous non-wetland area of at least 20,000 square feet is provided for each building lot. This contiguous non-wetland area must be sufficient in size and configuration to adequately accommodate all housing and required utilities such as wastewater disposal, water supply, and all applicable setbacks.
- 2. Areas designated as very poorly drained, fresh or saltwater marsh or alluvial soils may not be utilized to fulfill the minimum lot size.
- 3. No septic system, leach field or other waste disposal facility shall be installed within fifty (50) feet of the edge of any poorly drained soil (type B hydric) or within seventy-five (75) feet of the edge of any very poorly drained soil (type A hydric) or open water.

- (iii) Minimum lot sizes for residential developments with greater than four (4) bedrooms per unit shall be determined as follows:

For multi-family residential use, the minimum lot size shall be proportionately smaller than the lot size indicated in the Table of the Appendix as determined by the following formulas:

- 1. Number of 1 and/or 2 bedroom units = Area of each soil type on the lot divided by (lot size from the Table in the Appendix, 1A/B x .65).
- 2. Number of 3 bedroom units = Area of each soil type on the lot divided by (lot size from the Table in the

Appendix, 1A/B x .85).

3. For duplex use, where the total number of bedrooms in the building exceeds 4, the lot size shall be increased by 50% of the minimum lot size as determined by the Table in the Appendix.

- (iv) For commercial and industrial uses with residential-type waste, the lot sizes will be determined by the formula:

Allowed lot size = $Q/200\text{gpd}$ x lot size as shown in the Appendix

Q is equal to the gallons of wastewater to be discharged per day, as determined by use of Env-Ws 1008.02 Average Daily Flow Volume

- (v) Determination of Soil Type:

1. Tests for determining soils information for use in this Section shall be performed by a qualified soil scientist using on-site inspections. A report and plan shall be prepared by the qualified soil scientist and filed with the Planning Board.
2. Soil data using the standards of “High Intensity Soil Maps of New Hampshire” shall be provided as part of the subdivision plan at the scale and dimensions required. Any cover letters or explanatory data provided by the qualified soil scientist shall also be submitted.
3. Such tests shall be performed with the advice and under the direction of the Planning Board or its designated agent.
4. All costs of performing such investigations shall be borne by the subdivider.

- (6) No building shall exceed four (4) stories in height (except for cupolas, dormers, building towers, and similar elements).

- (7) Flexible street design, compatible with the design of the PUD is encouraged. Street designs which promote a sustainable community living environment within the PUD are encouraged. Street widths may be reduced from the

provisions of the Zoning Ordinance and Subdivision Regulations where a reduction in street size is compatible with the harmonious development of the PUD and accommodates emergency vehicles and other functional needs.

- (8) The PUD shall be in compliance with a) all standards contained within the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations unless waived or modified as part of the master plan and b) all applicable local, state, and federal law relating to public health and safety, building construction, drainage, nuisances, and protection of natural and cultural resources (these standards may not be waived or modified).
 - (9) All roads and structures shall be set back a minimum of fifty (50) feet from all exterior PUD tract boundaries which abut residential uses except where transportation or use linkages are desired. Landscaping and other screening devices shall be designed to provide a reasonable buffer between the PUD and adjoining property except where compatible uses adjoin one another.
 - (10) Private roads may be utilized provided acceptable arrangements are made for their ownership and maintenance.
 - (11) In a PUD where ownership is subject to restrictions, covenants and other agreements, those documents shall be recorded in the Strafford County Registry of Deeds and shall be subject to the reasonable approval of the Planning Board.
 - (12) Where municipal water and/or sewer service is reasonably available the applicant must tie in. The Planning Board may require extension and connection to service at its sole discretion. The board may also stipulate that the developer provide a financial analysis comparing costs of extending service to those of on site systems.
 - (13) Any proposed covenants, restrictions, and easements must be approved by the Planning Board. A provision must be built into the documents providing for municipal enforcement of the covenants, restrictions, and easements at the City's option and at the developer's expense under appropriate circumstances.
- (h) **Criteria for review of PUD proposals.** The following criteria shall guide the Planning Board in determining appropriate land uses, densities, and other development standards for the PUD. *It is emphasized that the determination of whether or not a proposal meets the intent and objectives of this ordinance is made by the Planning Board in its reasonable discretion.*
- (1) **General Considerations.** The Planning Board shall consider the following:

- (A) Standards of underlying zoning district - permitted uses, densities (including reference to the yield plan), and other standards. However, these standards shall not be controlling provided the applicant is otherwise in compliance with the terms of this ordinance.
 - (B) Provisions of City of Rochester Zoning Ordinance, Site Plan Regulations, Subdivision Regulations, and other applicable city, state, and federal law, where appropriate.
 - (C) Consistency with the City of Rochester Master Plan, particularly the Land Use Chapter.
 - (D) Conformance with the intent and objectives of this ordinance.
 - (E) Infrastructure capacity and the effect of the PUD upon public services and public safety.
 - (F) Prospective fiscal impact upon the City of Rochester.
- (2) Specific objectives. Every PUD should incorporate a number of the following elements. Their usage defines a planned unit development and justifies departures from standards otherwise applicable under conventional zoning (introduction of new uses, more intensive land uses, higher density, novel design approaches, etc.).
- (A) Traditional neighborhood development approaches (see Rochester Land Use Chapter).
 - (B) Open space development approaches (see Rochester Land Use Chapter).
 - (C) Creation of a network of narrow, attractive, walkable streets
 - (D) Inclusion of a harmonious mix of uses. Some commercial/nonresidential uses must be part of the PUD. Reasonable provisions must be made to increase the likelihood of those uses being established. The Planning Board may waive the requirement for inclusion of commercial/ nonresidential uses if it determines that those uses are not viable.
 - (E) Provisions for quality architectural design
 - (F) Placement of structures on most suitable sites with consideration of

topography, soils, vegetation, slope, etc.

- (G) Preservation of significant open space.
- (H) Preservation of natural vegetation and other important natural features.
- (I) Preservation of important cultural resources such as stone walls and other archaeological sites.
- (J) Development of active or passive recreational areas.
- (K) Quality landscaping
- (L) Use of sidewalks, bikeways, and other multi-use paths.
- (M) Use of traffic mitigation or traffic calming measures.
- (N) Significant screening of, or rear placement of, parking areas.
- (O) Sustainable design and construction practices promoting energy conservation.
- (P) Other public benefits such as provision of a community center or day care center.
- (Q) Public access to community facilities in PUD.

(i) **Submission Requirements**

- (1) **Materials.** The applicant for a PUD shall provide the following materials (in format and number as reasonably determined by the Planning Department):
 - (A) Completed PUD application
 - (B) Narrative, including a well thought-out statement of the purpose of the PUD, how the PUD meets the objectives of this ordinance, and the ways in which the proposal would benefit the community.
 - (C) Proposed land plan
 - (D) Proposed land use list
 - (E) Yield plan
 - (F) Fiscal/community services impact study prepared by a qualified professional
 - (G) Natural and cultural resources reconnaissance study of the tract prepared by a qualified professional
 - (H) Completed abutters list

- (I) PUD application fee
- (2) Information. The applicant for a PUD shall provide the following information. Given the amount of information needed it is recommended that the plan be developed and refined through several conceptual/preliminary iterations with the staff and Planning Board. Many of these items may be presented as approximations or preliminary estimates subject to change, where appropriate.
 - (A) Present underlying zoning classification and zoning classification of all adjoining lots
 - (B) Topographic information on the tract including soil types, wetlands, surface water, land contours, natural and cultural resources, ridges and knolls, rock outcrops, steep slopes, etc. This information may be presented in an overview format, in less detail than would be required of a site plan or subdivision application provided that a clear sense of the tract is conveyed sufficient to evaluate the PUD proposal. However, a full wetlands delineation of the tract is required as part of the PUD.
 - (C) Total acreage of the tract; rough delineation of each land use area with approximate acreage,
 - (D) Proposed uses for each land use area, preferably given with some specificity.
 - (E) Proposed total number of dwelling units, total number of bedrooms (including general disposition of bedrooms) and overall residential density for the tract
 - (F) Proposed number of dwelling units for each land use area.
 - (G) Proposed location, size, use(s) for each structure.
 - (H) Proposed location, width, and materials of all streets, drives, sidewalks, and paths.
 - (I) Proposed location and number of spaces for each parking area.
 - (J) Proposed open space areas
 - (K) A natural, historic and cultural Resources Inventory which shall include a description and discussion of the natural, historic and cultural resources proposed to be preserved and which shall at a

minimum include, the mapping of any wildlife corridors, natural dense forested stands or active farm lands.

- (L) Proposed buffers, if appropriate, to adjoining property
 - (M) Brief explanation or sketch of proposed landscaping
 - (N) Brief explanation or sketch of proposed water and sewer/septic systems
 - (O) Brief explanation or sketch of proposed stormwater management plan
 - (P) Brief explanation or sketch of other proposed utilities
 - (Q) Proposed firefighting strategy. This should be negotiated with the Planning Board and Fire Department and may include, as appropriate, use of municipal water, residential/commercial sprinkler systems, alarm systems, etc.
 - (R) Proposed architectural standards or guidelines or brief explanation/sketch of architectural treatment
 - (S) Proposed time schedule for completion of the project, phasing schedule (if applicable depending on scale and type of PUD), plans for bonding if applicable, and well thought out plan to ensure that the amenities will be completed as proposed and in a timely manner.
 - (T) Proposed covenants, restrictions and easements and how they will be monitored and enforced, if applicable.
 - (U) Proposed ownership arrangement of each section of the PUD whether to be subdivided, held in fee simple, owned under a condominium arrangement, established as a homeowners association, etc.
 - (V) Proposed articles of incorporation and bylaws of any corporation and/or homeowners association to be formed.
 - (W) Any other information that the Planning Board or the City Attorney may deem reasonably necessary.
- (j) **Interpretation/application of PUD master plan.** The Planning Board shall review any site plan or subdivision application for its conformity with the approved PUD master plan, however the PUD will control over site review and subdivision regulations. The board may use its discretion in determining if particular items are consistent with the intent of the plan.

- (1) Many items in the PUD Master Plan will be presented and construed to be in preliminary sketch form subject to preparation of detailed, engineering analysis and some modification at the site plan/subdivision application stage consistent with the master plan. These items include exact lot locations and layouts, exact locations of roads and paths, size and configuration of parking lots, utility information, water and sewer/septic, drainage, landscaping, and architectural renderings. (For example, the land plan may show numerous trees to be planted. The applicant would be able to significantly modify the locations and types of planting at the site plan stage provided the intent of the landscaping element as presented in the land plan is met.)
 - (2) All development standards must ultimately be determinable for each land use area. Where specific development standards are neither stated nor implied in the PUD master plan, the most appropriate standards otherwise applicable (from the Zoning Ordinance, Site Plan Regulations, and/or Subdivision Regulations) shall apply as determined by the Planning Board. (For example, an area designated for single family homes in the PUD master plan does not specify front setbacks. The front setbacks contained in the City's primary single family zoning district would then apply.)
- (k) **Fees.** The application fees for a PUD are as follows:
- (1) \$50 per gross acre of the tract.
 - (2) \$500.00 at the preliminary review with the balance due at the regular review