

**CHAPTER 7A PLANNED UNIT DEVELOPMENT (PUD) (added by amendment
Oct. 2007)**

Purpose

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve critical natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that Planned Unit Developments will offer one or more of the following advantages:

- Serve to implement the goals, objectives, and strategies of The Shepherdstown Comprehensive Plan specific to the district or neighborhood in which the PUD is to be located;
- Apply the design principles of new urbanism, neo-traditionalism, and other emerging smart growth principles, urban development patterns and best management practices, using Shepherdstown as a physical model;
- Promote development patterns that maximize compatibility of differing adjacent land uses to avoid the necessity of extensive buffering;
- Enhance the appearance of neighborhoods by conserving areas of special natural beauty, steep slopes, ecological importance, flood prone areas, and natural green spaces where appropriate, while understanding that land within urban areas is best suited for urban densities and development patterns;
- Encourage good urban design and mitigate congestion on streets;
- Promote architecture that is compatible with the Shepherdstown community vernacular, and/or the surroundings;
- Promote design principles that allow differing types of land uses to coexist while preserving property values and minimizing potential negative consequences;
- Promote appropriate urban densities that will help make alternative forms of transportation economically and socially feasible; and
- Promote and protect the environmental integrity of the site and its surroundings by providing suitable design responses to the specific environmental constraints of the site and surrounding area.

Definitions

A Planned Unit Development is an area under single ownership or control to be developed in conformance with an approved development plan, consisting of 1) a map showing the development area and all proposed improvements to the development area, 2) a text which sets forth the uses and the development standards to be met, and 3) exhibits setting forth any aspects of the development land not fully described in the map and text. The map exhibits and text constitute the use and development regulations for the Planned Unit Development site in lieu of the regulations for the underlying district.

Requirements for Planned Unit Development

The area designated in the Planned Unit Development map must be a tract of land at least two (2) acres in size and under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants and commitments which run concurrent with the Planned Unit Development.

The Outline Plan shall indicate the land use, development standards, and other applicable specifications of the Planning and Zoning Ordinance which shall govern the Planned Unit Development. If the Outline Plan is silent on a particular land use development standard or other specification of the Planning and Zoning Ordinance, the standard of the underlying district or the applicable regulations shall apply.

The Planned Unit Development map shall show the location of all improvements. The location of Planned Unit Developments shall be designated on the Official Zoning Map and adopted pursuant to rules and regulations governing amendments of the Planning and Zoning Ordinance.

The Planned Unit Development must comply with all required improvements, construction standards, design standards, and all other engineering standards adopted and enforced by the Corporation of Shepherdstown, and any other pertinent regulations, except where specifically varied through the provisions of this Chapter.

Designation and Conveyance or Ownership of Permanent Open Space.

Definition. Permanent open space shall be categorized as one of two types:

Improved Open Space is defined as parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man.

At least 30 percent of the total permanent open space in any given Planned Unit Development shall be of the Improved Open Space type.

Natural Open Space is defined as areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of Natural Open Space shall constitute disturbance of the area in the amount of the length of the walking trail multiplied by its width. Neither definition of open space shall include schools, community centers or other similar areas in public ownership.

Designation. Within all Planned Unit Developments, a minimum of 10 percent of the proposed Planned Unit Development area shall be designated as permanent open space. No plan for a single- or multi-family residential Planned Unit Development shall be approved unless such plan provides for permanent landscaped or natural open space.

Proximity. In the case of mixed-use Planned Unit Developments, permanent open space shall be allocated to the property in proportion to the uses assigned to the Planned Unit Development and shall be located in reasonable proximity to those uses. Provided, however, the permanent open space need not be located in proximity to the use in the case of preservation of existing features.

Proportion. If the Outline Plan provides for the Planned Unit Development to be constructed in stages, open space must be provided for each stage of the Planned Unit Development in proportion to that stage.

Conveyance. Permanent open space shall be conveyed in or owned by one of the following forms:

To a municipal or public corporation; or

To a nonprofit corporation or entity established for the purpose of benefiting the owners and tenants of the Planned Unit Development or, where appropriate and where approved by the Planning Commission and the Town Council, adjoining property owners, or both. All conveyances hereunder shall be structured to insure that the grantee has the obligation and the right to affect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the Planned Unit Development and, where applicable, by adjoining property owners; or

To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Unit Development or adjoining property owners, or both; or

Uses permitted in a Planned Unit Development may be any use that is found in the Planning and Zoning Ordinance in any district, subject to the approval of the Planning Commission and Town Council.

For purposes of determining overall project size, two or more parcels of land owned by the applicant that are wholly or partially separated by a public street or other right of way may be considered contiguous and thus may be counted in fulfilling the two-acre requirement, provided that the use and development of the property is incorporated into, and is an integral part of the project plans; and provided that there is no other property not owned by the applicant separating the parcels in question. Where there is uncertainty in determining a parcel's qualification to be included in the PUD, the Planning Commission shall resolve the issue and make a determination as to the project boundaries, after considering the advice of the Planning and Zoning Director and the request by the applicant.

Procedure for Approval of Planned Unit Development

Introduction. Applications shall be accompanied by all plans and documents required by Sections 9-7A02 and 9-7A03. A three-step application process shall be used. The steps in the process are:

Pre-application Conference;

Outline Plan Approval; and

Development Plan Approval.

Pre-application Conference. Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-application conference with the Planning and Zoning Director. The purposes of the pre-application conference shall be to:

Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted municipal plans and policies.

Allow the Planning and Zoning Director to inform the applicant of pertinent policies, standards and procedures for the Planned Unit Development.

The pre-application conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.

Procedure for Outline Plan Approval. Based upon the pre-application conference, the applicant shall develop and submit an Outline Plan for the proposed Planned Unit Development.

The Outline Plan and application for the Planned Unit Development shall be submitted to the Planning and Zoning Director who, after certifying the application package to be complete, shall initiate a review of the proposed development.

The application and the results of the review shall then be forwarded to the Planning Commission for its consideration, public hearing and recommendations, together with the Planning Department's report and such other documents as may be pertinent to the Planned Unit Development.

3. The Planning Commission shall hold a public hearing. A notice of time and place of such public hearing shall be published in a paper of general circulation in the area at least once, at least thirty (30) days prior to the date set for the hearing. Such notice shall contain the address or location of the property for which the Planned Unit Development is being sought

4. Where there are environmentally sensitive features on the site or the Development Plan is expected to be complex, or there are other important, planning implications involved, the Planning Commission may reserve the right to review the Development Plan. And, where the Planning Commission recommends denial of an Outline Plan and the Town Council approves the plan, the Planning Commission shall review the Development Plan.

5. Upon completion of its review, the Planning Commission shall forward the application to the Town Council with 1) a favorable recommendation, or 2) an unfavorable recommendation.

6. The Town Council shall vote on the proposal within 90 days after the Planning Commission acts on the proposal. The Town Council may adopt or reject the proposal.

Effect of Approval of Outline Plan:

When an Outline Plan for a Planned Unit Development has been approved by the Town Council, the Plan shall become effective and its location shall be shown on the Zoning Map. The Zoning Map shall be amended to designate the site as a Planned Unit Development (PUD).

Upon such amendment of the Zoning Map, the use and development of the site shall be governed by the Planned Unit Development Outline Plan, subject to approval of a Development Plan.

No permit of any kind shall be issued until the Development Plan has been approved.

Development Plan:

Purpose of Development Plan. The purpose of the Development Plan is to designate the controls for development of the Planned Unit Development. The Development Plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses for each building.

Time Limit for Approval of Development Plan. The Development Plan shall be submitted to the Planning Department not more than eighteen (18) months following Town Council approval of the Outline Plan.

The Outline and Development Plans may be submitted as a single plan if all requirements of Section 9-7A02 are satisfied. The Development Plan may be submitted and approved in stages, with each stage representing a portion of the Outline Plan, at the discretion of the Planning Commission. The time limit for submitting each stage for approval may be set forth in the Outline Plan, in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The Planning Commission may extend the time for application for approval of the Development Plan for good cause, consistent with the purposes of the Planning and Zoning Ordinance.

Expiration of Time Limit. Periodically, the Planning and Zoning Director shall report to the Planning Commission on Planned Unit Developments with time limits that have expired. The original applicants or current developers of the Planned Unit Development shall be notified by the Planning and Zoning Director. The Planning Commission

shall determine whether to consider extending the time or to initiate action to amend the Zoning Map so as to rescind the Planned Unit Development designation.

Relationship of Development and Outline Plan. The Development Plan shall conform to the Outline Plan as approved.

Procedure for Approval of a Development Plan: The applicant must have the Development Plan approved prior to issuance of any building permit.

Development Plan Submission. The Development Plan and supporting data shall be filed with the planning staff.

Review. The Planning and Zoning Director shall review the Development Plan to include site plan review, in accordance with the requirements of the Planning and Zoning Ordinance.

Staff Approval. It shall generally be the responsibility of staff to review Development Plans unless the Planning Commission reviews the Development Plans, or where no Development Plan is required.

Planning Commission Review. If the Planning Commission has retained Development Plan approval authority, the Planning Commission shall hold a public hearing in accordance with §9-7A04 C 3. The Commission may 1) approve, 2) deny or 3) approve with modifications.

Expiration of Development Plan. The Development Plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Development Plan approved in stages. The applicant may request, in writing, an extension of time, and the approving authority may extend the time limit where deemed appropriate. Such extension may be considered at the time of Development Plan approval.

Effect of Approval of Development Plan. No permit of any kind shall be issued for any purpose within a Planned Unit Development except in accordance with the approved Development Plan, and after acceptance by the Corporation of Shepherdstown of all required guarantees for improvement.

Specific Content of Plans

Planned Unit Development plans and supporting data shall include all documentation listed in this Section of Chapter 7A of Title 9 unless certain documentation is deemed superfluous by the Planning and Zoning Director due to the specific circumstances of the particular request.

Pre-application Conference Requirements

A written letter of intent from the applicant describing the applicant's intention for developing the site.

A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints.

Outline Plan Requirements

A drawing of the proposed Planned Unit Development shall be prepared at scale not less than 1" = 50', or as considered appropriate by the Planning and Zoning Director, and shall show in concept major circulation; generalized location and dimensions of building structures and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:

A site location map.

Map data such as north point, scale and date of preparation.

The name of the proposed development, with the words "Outline Plan" in the title block.

Boundary lines and acreage of each land use component.

Existing easements, including location, width and purpose.

Existing land use on abutting and adjacent properties.

Other conditions on adjoining land: topography (at 2-foot contour intervals) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers and other influences; name of any adjoining subdivision plat.

Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, culverts and drainageways.

Proposed public improvements: streets and other major improvements planned by the public for future construction on or adjacent to the tract.

Existing utilities on the tract.

Any land on the tract within FIRM Zone "A"; the 100-year floodplain, or floodway.

Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees six (6) inches or more in diameter, existing structures and other significant features.

Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.

Miscellaneous. The Planning and Zoning Director shall inform the applicant of any additional documents or data requirements after the Pre-application Conference. The developer must submit 14 copies of any page of any portion of the plan that exceeds 11 inches by 17 inches in size. If fewer copies than required are submitted, the Planning and Zoning Director shall deem the application to be incomplete and shall not schedule hearing dates until the situation is resolved.

Written Statement of Character of the Planned Unit Development. An explanation of the character of the Planned Unit Development and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:

Objectives. A specific explanation of how the proposed Planned Unit Development meets the objectives of all adopted land use policies which affect the land in question.

Ownership. A statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

Scheduling. Timing of proposed development indicating:

Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped; and

Projected dates for beginning and completion of each stage of land development.

Proposed Uses.

Residential Uses: gross area, architectural concepts (narrative, sketch, or representative photo), number of units, bedroom breakdown, and proposed occupancy limits for each residential component.

Nonresidential Uses: specific nonresidential uses, including gross floor areas (GFA), architectural concepts (narrative, sketch, or representative photo), and building heights.

Facilities Plan. Preliminary concepts and feasibility reports for:

Streets, roadways and bikeways

Sidewalks and pedestrian pathways

Water supply system

Sanitary sewers

Stormwater management

Public utilities

Streetscaping, furniture and lighting

Traffic Analysis. If requested by the Planning and Zoning Director or the Planning Commission, a study of the traffic impact caused by the proposed Planned Unit Development and/or any measures proposed to mitigate that impact.

C. Development Plan Requirements.

The application for Development Plan approval shall include, but not be limited to, the following documents:

1. Such additional information as may have been required by the Outline Plan approval.
2. An accurate map exhibit of the entire phase for which Development Plan approval is being requested, showing the following:
 - a. Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show building setback lines and other design constraints.
 - b. Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts details.

- c. Location of all public utility lines and easements.
 - d. A final detailed landscape plan. Tabulation on *each* separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
 - e. A detailed Open Space Plan showing the location and acreage of Improved Open Space, Natural Open Space and total Permanent Open Space; how it is owned and maintained; and all proposed improvements.
3. If lands to be subdivided are included in the Planned Unit Development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Outline Plan approval, is required where platting is to be proposed concurrent with the Development Plan review and approval process.
 4. Projected construction schedule.
 5. Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads.
 6. Guarantee of Performance for Completion of Improvements. A bond or other guarantee acceptable to the Corporation of Shepherdstown shall be provided for all proposed public improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities that shall become public, and may include other facilities or improvements as may be specified in the Outline or Development Plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of one hundred twenty-five

percent (125%) of the estimated cost of the improvements, as determined by the project contractor or engineer.

Review Considerations

In consideration of a Planned Unit Development Outline Plan, the Planning and Zoning Director in his/her report to the Planning Commission, the Planning Commission in their recommendation to Town Council, and the Town Council in its decision, shall consider as many of the following as may be relevant to the specific proposal:

The extent to which the Planned Unit Development meets the purposes of the Planning and Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the Corporation of Shepherdstown.

The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.

The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.

The proposal will not be injurious to the public health, safety, and general welfare.

The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic and promotes alternative forms of transportation, provides for and protects designated permanent open space, and furthers the amenities of urban ambience, light and air, recreation and visual enjoyment.

The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

The desirability of the proposed plan to the Corporation of Shepherdstown's physical development, tax base and economic well-being. At the discretion of the Planning Commission and Town Council, special consideration in the form of increased development flexibility may be given to projects that are intended to rehabilitate or replace dilapidated areas, brownfields, or other areas of general visual or economic blight. Such special consideration shall not be granted to projects intended for construction on lands that consist of 60 percent or more previously undeveloped lands.

The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

The proposal will enhance the appearance, image, function, and economic sustainability of the community at large.

Projects which are designed to a more human scale, support multi-modal transportation options, preserve useful open space, provide significant amenities to residents, and incorporate architectural detailing, massing and scale that is consistent with Shepherdstown's historical community norms shall have a significant advantage in the review process over those that merely seek to maximize inappropriate forms of density, circumvent customary development standards, or promote a pattern of development that can be generally recognized as "urban sprawl," as defined in the definitions contained in Chapter 13 of Title 9 of the Town Code.

Changes in the Approved Planned Unit Development

Changes Requiring Outline Plan Approval. Changes which alter the concept or intent of the Planned Unit Development including but not limited to:

Significant changes in density;

Significant changes in the proportion or allocation of land uses;

Change in the list of approved uses;

Changes in the locations of uses;

Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or

Changes in the final governing agreements where such changes conflict with the approved Outline Plan.

Changes Requiring Development Plan Approval. These changes shall include the following:

Changes in lot arrangement, or addition of buildable lots that change approved density of the development;

Changes in site design requirements, such as location of required landscaping, signage, building height, architectural character, cube and/or footprint, or other such requirements of the Planning and Zoning Ordinance;

Changes to the internal street system or off-street parking areas;

Changes in drainage management structures;

5. Changes in the Open Space Plan;
6. Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or
7. All other changes not expressly addressed under Section 9-7A07A shall require new Development Plan approval.