

ARTICLE 38
PLANNED UNIT DEVELOPMENT (PUD)

SECTION 38.01. Purpose

The purpose of this Article is to implement the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, authorizing the use of Planned Unit Developments (PUD) to allow the use of regulatory flexibility in the consideration of proposed land uses within the Township consistent with the requirements of the Township's Master Use Plan. It is the intent of the Township that the standards within the Zoning Ordinance may be increased, decreased, waived, or otherwise modified under the provisions of this Article to promote development that achieves one or more of the following objectives:

- A significantly greater preservation of open space and natural resources;
- Providing community amenities;
- Other recognizable benefits beyond those afforded by development that adheres strictly to the minimum requirements of the underlying zoning classification applicable to the property.

SECTION 38.02. Qualifying Conditions

A. Qualifying Conditions for all PUDs

1. The PUD site shall be under the control of one (1) owner or group of owners and shall be capable of being planned and developed as one (1) integral unit.
2. A PUD may only be approved in conjunction with an approved PUD concept plan and a written PUD Agreement between the Township and the property owners.
3. A PUD may be approved in any zoning district.
4. The Township may approve a PUD on certain property or properties following the application and approval procedures below.
5. The applicant's submission pursuant to Article 38 PUD, Application Submittal Requirements, must demonstrate that the proposed PUD is recommended for planned unit development in the Township's adopted Master Plan or includes areas indicated in the Township's adopted Master Plan as having significant natural, historical, or architectural features. The Township may also qualify sites where an innovative, unified, planned approach to developing the site would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional zoning would allow.
6. If multiple uses are contained in a PUD, then such uses must be complementary in nature.

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7. If a PUD includes residential uses, the housing types must be clustered to preserve common open space, in a design not feasible under the underlying zoning district regulations.
8. A PUD shall achieve a higher quality development than is otherwise possible with the regulations for the underlying zoning district.
9. A PUD shall result in a recognizable and substantial benefit to ultimate users of the project and to the community. The benefit to the community must be proportionate to the modifications of the Township standards being requested. Such benefits may include, but are not limited to the following:
 - a. Preservation or enhancement of significant natural features or open space.
 - b. Provide a complementary variety of housing.
 - c. Provide a civic facility or other substantial public improvement.
 - d. Alleviate traffic congestion.
 - e. Provide for the appropriate redevelopment or reuse of sites designated as local historic districts (including non-contiguous districts), or parcels occupied by prior or obsolete non-residential uses.
10. A PUD shall further other public objectives identified in the Township Master Plan.

SECTION 38.03. PUD Review Process

The PUD review process consists of the following procedures (see graphic):

A. Pre-application Conference

Before submitting an application for approval of a PUD, the applicant shall confer in a pre-application conference with the Township Supervisor, Planning Director, and the Building Director to obtain information and guidance regarding land development regulations, the Township’s Master Plan and the application process. At the pre-application conference the applicant shall submit a concept plan for the proposed PUD, containing both maps and a written statement. The plan should include enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed, and should contain sufficient detail to permit a meaningful exchange of ideas between the applicant and Township staff regarding the suitability of utilizing a PUD approach to the development of the subject property.

B. Preliminary Review

Preliminary review by the Planning Commission shall be required. Sufficient information regarding the proposed uses, density, intensity, road layouts, design concepts, and the relationship of the proposed PUD to surrounding area must be

provided. The Planning Commission shall take no formal action during preliminary review.

C. Planning Commission Review of PUD

Upon completion of the preapplication conference stage, a PUD application meeting the submission requirements of Article 38, PUD Application Submittal Requirements, shall be submitted to the Planning Commission for its review.

D. Public Hearing

A public hearing on the PUD shall be held by the Planning Commission, with notification that shall be provided as follows:

1. Notice shall be published in a newspaper of general circulation in Commerce Charter Township not less than fifteen (15) days prior to the public hearing scheduled.
2. Notice shall also be sent by mail or personal delivery to the owners of all property for which approval is being considered, to the owners of all real property within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question, regardless whether the property or occupant is located within the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. This notice shall be sent not less than fifteen (15) days prior to the date of the public hearing scheduled.
3. The notice shall contain:
 - a. A description of the nature of the request to be heard.
 - b. A description of the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
 - c. A statement of when and where the request will be considered.
 - d. An indication of when and where written comments will be received concerning the request.

E. Recommendation By Planning Commission

After the public hearing, the Planning Commission, using the standards in Article 38, Qualifying Conditions, and, to the extent they are applicable to review of the PUD application, the standards in Article 38, Project Design Standards, shall make a recommendation to the Township Board of approval, approval with modifications, or

disapproval of the PUD, as represented by the PUD plan and accompanying materials. The Planning Commission shall prepare a report stating its conclusions on the PUD request, the basis for its recommendation, the recommendation, and any conditions relating to an affirmative recommendation.

F. Township Board Review of PUD

Upon receipt of the Planning Commission's recommendation, the Township Board shall make a decision on the PUD application. Based upon the standards in Article 38, Qualifying Conditions, and, to the extent they are applicable to review of the PUD application, the standards in Article 38, Project Design Standards, the Township Board may deny, approve, or approve with conditions the proposed PUD. The Township Board shall prepare a report stating its conclusions on the PUD application, the basis for its decision, the decision, and any conditions relating to an affirmative decision.

G. PUD Site Plan Review

A complete site plan shall be submitted for review pursuant to Article 38 Site Plan Review, for each phase(s) of an approved PUD plan.

H. Enforcement

The Building Director or his/her designee shall review all building permits for an approved PUD project for compliance with the terms of the approved PUD agreement, and the Commerce Charter Township Code and any other applicable codes and ordinances.



PUD Review Process
Charter Township of Commerce

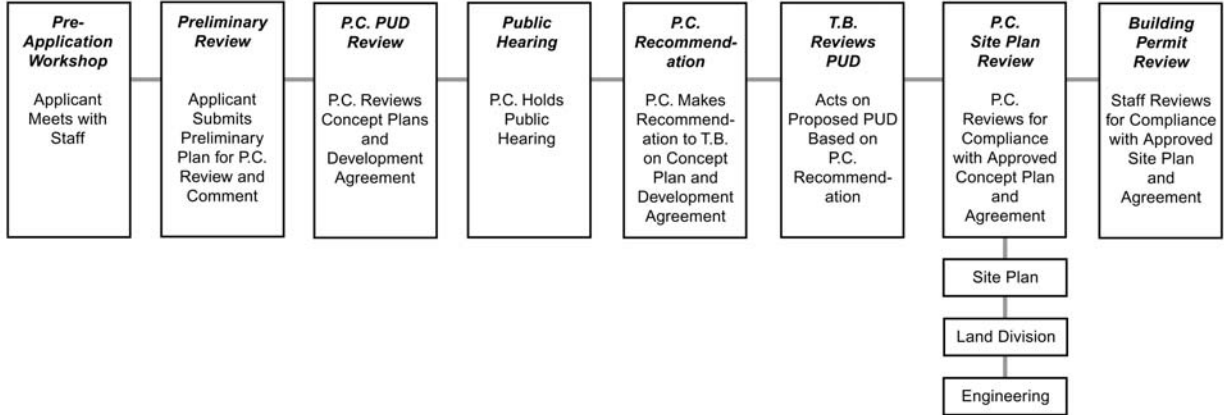


Figure 1

SECTION 38.04. PUD Application Submittal Requirements

A. Requirements.

The PUD application shall include all the following information, unless the Planning Director determines that some of the required information is not reasonably necessary for the consideration of the PUD:

1. Application Fee. Application form and required fee.
2. Proof of Property Ownership.
3. Period of Time. A narrative indicating the period of time within which it is contemplated the project will be completed.
4. Concept Plan. A Concept Plan showing a layout of the uses and structures in the PUD and their locations.
5. Access Easements. Written verification of access easements or agreements, if applicable.
6. Qualifying Conditions. Information pursuant to Article 38 Qualifying Conditions.
7. Impact Statements. Graphics or written materials requested by the Planning Commission or Township Board to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public primary and secondary schools and utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.
8. Impact on Surroundings. Additional information that may be reasonably necessary for a full and complete consideration of the proposed PUD and its impact on the immediately surrounding area and the Township as a whole.
9. PUD Agreement. The applicant shall propose terms for a PUD to be prepared by the Township Attorney. The PUD Agreement shall include the specific terms and conditions of approval, including terms related to administration of the project and those matters subject to approval by the Planning Director. The PUD Agreement shall be recorded at the Office of the Oakland County Register of Deeds.
10. Community Impact Statement. The application for PUD review shall include a Community Impact Statement. The statement shall be derived from a study of the Township based on information from the following community elements:
 - a. Planning/zoning issues, including conformance with the Master Plan, Zoning Ordinance, other applicable township codes and policies, the Commerce Charter Township Code and state, county, and federal laws and regulations.

- b. Land development issues, including topographic, soil conditions, and site safety concerns.
- c. Private utilities consumption, including electrical needs and natural gas utilization.
- d. Noise level conditions.
- e. Air quality conditions.
- f. Environmental design and historic values including visual quality and historic resources.
- g. Community facilities and services, including refuse collection, sanitary and storm sewer, and water supply.
- h. Public safety needs, including police, fire and emergency medical services.
- i. Open space landscaping and recreation, including cultural elements.
- j. Traffic impact study.

SECTION 38.05. PUD Site Plan Review

For the total PUD or for each phase of the PUD, if phasing of development is planned, a site plan review is required in accordance with Article 35 prior to the issuance of any permits. If a PUD is proposed in phases, then an overall concept plan that shows the entire development and the anticipated phasing must be submitted. The site plan submittal shall include the information required by Article 35, Required Information for Site Plans.

SECTION 38.06. Regulatory Flexibility

The Township Board, either during the PUD review stage, or after site plan review by the Planning Commission, may increase, decrease, waive, or otherwise modify the current standards within the Zoning Ordinance including, but not limited to: use, density, intensity, setbacks, building heights, parking, design standards, project design standards in Article 38, Project Design Standards, and landscape standards provided the modification is found to improve the quality of development above and beyond what could be developed under the underlying zoning, or results in a higher level of public benefit, and to achieve the purpose of this article.

SECTION 38.07. Project Design Standards

A. Design Guidelines

The following standards are intended as guidelines and may be modified by the Township under the provisions of Article 38, Regulatory Flexibility.

- 1. The Planning Commission and Township Board shall use any applicable standards for approval contained in the Commerce Charter Township Code and other Township Ordinances related to land use and any adopted development guidelines, as well as the standards contained in the Michigan Zoning and

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Enabling Act, Public Act 110 of 2006, as amended, which are not inconsistent with the approved PUD plan or the PUD Agreement, in reviewing and approving a site plan.

2. Densities per Type of Development Area. For areas of detached single family housing, the density may not exceed three (3) dwelling units per acre; for areas for residential uses other than detached single-family housing, the density may not exceed eight (8) dwelling units per acre; for areas mixing detached single-family housing with other types of housing, appropriate density, lot sizes and developmental provisions shall be determined by the Township Board following review by the Planning Commission, considering the requirements of such districts. The Township may permit proportionate increases in density or intensity for projects that demonstrate a significant public benefit to the Township.

3. Open Spaces and Recreation Areas. A minimum of twenty percent (20%) of the gross PUD acreage shall be occupied by open space and recreation areas, which may include plazas. A maximum of ten percent (10%) of the open space and recreation areas may be composed of regulated wetlands.

The land within one hundred (100) feet of a regulated wetland may be counted toward the overall density of a proposed project provided that the project will further certain public objectives which could not otherwise be achieved under conventional zoning, such as:

- Preservation of natural features.
- Public improvements.
- Qualifying conditions listed in Article 38.
- Objectives listed in the Township Master Plan.

4. Proposed Uses. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and traffic circulation system, surrounding properties, or the environment. The public benefit shall be one that could not be achieved under the regulations of the underlying district alone, or that of any other single zoning district.

5. Parking Spaces. The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by the Zoning Ordinance. However, if the parking needs of the development can be met by a modification of such requirements, or where warranted by overlapping or shared parking arrangements, or where parking spaces can simultaneously accommodate more than one use, the Planning Commission or Township Board may adjust the required number of parking spaces. The Township Board may also allow portions of required parking spaces to be banked as open space until determined either by the owner or the Township that such spaces should be improved.

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6. Road and Parking Construction Standards. All roads and parking areas within the planned unit development shall meet the minimum construction and other requirements of the Commerce Charter Township Code and other Township Ordinances, unless modified by the Township Board.
7. Landscaping. Existing landscaping shall be preserved and/or improved or additional landscaping shall be provided to ensure that proposed uses will be adequately buffered, where buffering is appropriate, from one another and from surrounding public and private property. The quality and/or quantity of landscaping materials shall exceed the minimums otherwise required by the Zoning Ordinance.
8. Natural, Historical and Architectural Features. The PUD plan shall demonstrate that the plan will preserve significant natural, historical, and architectural features, if any, and the integrity of the land.
9. Public Utilities. Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development.
10. Pedestrian and Vehicular Circulation. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and into the site shall be provided.
11. Vehicular Circulation. Drives, roads and other elements within the property shall be designed to implement the Circulation Plan in the Township Master Plan to promote safe and efficient traffic operations within the site and at its access points.
12. Master Plan. The uses proposed shall be consistent with the Township's Master Plan or the approved PUD concept plan.
13. Sidewalks and Multi-Purpose Paths. Sidewalks or multi-purpose paths shall be provided along major thoroughfares, where identified in the Township's Master Plan, and within the development, if deemed appropriate by the Planning Commission to provide safe and efficient non-motorized circulation.

SECTION 38.08. Status of Township Board Approval

Approval of a PUD application and execution and recording at the Oakland County Register of Deed's Office of a PUD Agreement (with the PUD Plan) containing all of the terms and conditions of approval by the Township Board confers on the applicant and any subsequent owners of the PUD property the right to utilize the property included as part of the approved PUD in accordance with the approved PUD Plan and PUD Agreement. The provisions of the PUD Agreement shall prevail over any inconsistent provisions of the Zoning Ordinance or the Commerce Charter Township Code and any other Township ordinance. An approved site plan shall take precedence over the approved PUD concept plan for the area of the approved site plan. Site Plan approval shall be granted only upon a determination by the Planning Commission that a

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proposed site plan is consistent with all of the terms of the approved PUD agreement and the approved concept plan.

The Township Board may cause to have legal documents, covenants or contracts prepared which are not inconsistent with the PUD Agreement, and may require the execution thereof by the applicant, which documents involve the Township and are required as a result of the conditions contained in the PUD Agreement or the site plan approvals in a PUD area.

The Building Director shall review all building permits for an approved PUD project for compliance with the terms of the approved PUD agreement and the Commerce Charter Township Code and any other applicable codes and ordinances.

SECTION 38.09. Revocations or Changes

The Township Board, upon a breach of the PUD Agreement, may revoke a PUD or any portion thereof. Revocation of any portion of a PUD reverts that portion of the PUD to the status and requirements of the original zoned district, without benefit of the PUD provisions. Proposed changes in a PUD, other than those considered a part of site plan review for all or a portion of the PUD, must be processed in the same manner as the original PUD procedure.

SECTION 38.10. Appeals and Violations

The Zoning Board of Appeals shall not have the authority to change specific PUD written conditions, or make interpretations to an approved site plan, which right is reserved to the Township Board. In considering an appeal or interpretation of an approved PUD, the Township Board may request input from the Planning Commission.

Any violation or deviation from an approved site plan or written conditions, except as authorized in this Ordinance, shall be considered a violation of Article 38 and treated as a violation of this Ordinance. Furthermore, any such deviation may be grounds to invalidate the PUD designation.

The cost of enforcing violations of the approved PUD site plan or agreement shall be borne by the developer or their successors.