

ARTICLE 13

PLANNED DEVELOPMENT

SECTION 13-1. PLANNED UNIT DEVELOPMENT DISTRICT - PUD

- 13-1-1 STATEMENT OF INTENT. This district is intended to permit development in accordance with a master plan therefor of cluster-type communities under one (1) ownership or control. Within such communities, the location of all improvements shall be controlled in such a manner as to permit a variety of housing accommodations in an orderly relationship to one another, with the greatest amount of open area and the least disturbance to natural features. A planned unit development may include neighborhood commercial facilities. (5/10/11, Case TA-11-66, Ord. No. 2011-10)
- 13-1-2 WHERE PERMITTED. PUD Districts shall be permitted in Districts LR, MR, HR, HR-1 and B-2. (5/14/91, Case TA-91-01, Ord. No. 020-91; 9/9/97, Case TA-97-07, Ord. No. 021-97)
- 13-1-3 USE REGULATIONS. Structures to be erected or land to be used shall be for the following uses:
- 13-1-3.1 Single family detached dwellings.
 - 13-1-3.2 Two family detached dwellings.
 - 13-1-3.3 Multifamily dwellings.
 - 13-1-3.4 Townhouses.
 - 13-1-3.5 Churches.
 - 13-1-3.6 Schools.
 - 13-1-3.7 Day nurseries or day care centers.
 - 13-1-3.8 Library.
 - 13-1-3.9 Neighborhood commercial uses. Not more than fifty-five percent (55%) of the gross area of the PUD product shall be devoted to commercial uses. (5/10/11, Case TA-11-66, Ord. No. 2011-10)

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- 13-1-3.9.1 Nursing homes, Adult Care Residences, Assisted Living Facilities, and Rest Homes. All residents must be sixty-two (62) years of age or older. (7/8/97, Case TA-97-05, Ord. No. 016-97; 9/14/10, Case TA-10-333, Ord. No. 2010-38)
- 13-1-3.10 Recreational uses, including club houses, golf courses, pools, tennis courts, and similar recreational improvements and facilities.
- 13-1-3.11 Accessory uses, as defined.
- 13-1-3.12 Public utilities, such as poles, lines, distribution transformers, meters, water and sewer lines.
- 13-1-3.13 Off-street parking in accordance with Section 18-6 of this Ordinance.
- 13-1-3.14 Signs in accordance with Section 18-8 of this Ordinance.
- 13-1-3.15 Home occupations in accordance with Section 18-19 of this Ordinance. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- 13-1-3.16 Group Home and assisted living facility in which no more than eight (8) persons reside as residential occupancy by a single family. (10/9/07 Case TA-07-02, Ord. No. 2007-41; 9/14/10, Case TA-10-333, Ord. No. 2010-38)
- 13-1-4 AREA REGULATIONS.
- 13-1-4.1 The minimum permitted size for any PUD District shall be five (5) contiguous acres. Additional land area may be added to an existing PUD if it is adjacent (except for public roads) thereto and forms a logical addition to the existing PUD and is under the same ownership or control. In cases where the applicant can show that strict adherence to the five acre minimum would produce unnecessary hardship and preclude development which is more compatible with the adopted Comprehensive Plan than that permitted without PUD zoning the Commission may recommend and the Council approve a waiver of the five acre minimum. (3/10/92, Case TA-91-06, Ord. No. 003-92)
- 13-1-4.2 The procedure for an addition shall be the same as if an original application were filed.
- 13-1-5 DENSITY. The density for a Planned Unit Development may be approved for up to eighteen (18) dwelling units per gross acre, except as provided for in Section 13-1-5.1 below. In determining the density to be allowed, the following shall be considered: anticipated population density; amount and type of open space provided; impact of the proposed density on surrounding residential areas; and

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the adequacy of the public streets providing access to the proposed development. (3/11/09, Case TA-08-12, Ord. No. 2009-10; 5/10/11, Case TA-11-66, Ord. No. 2011-10)

- 13-1-5.1 DENSITY ADJUSTMENT BASED UPON LEED® FOR HOMES CERTIFICATION. Where dwelling units are certified by the standards outlined in the United States Green Building Council LEED® for Homes program; and, with each dwelling unit having no more than two (2) bedrooms, the following Density Adjustment shall be applied: (3/11/09, Case TA-08-12, Ord. No. 2009-10)

<u>Level of Certification</u>	<u>Bonus Factor</u>
Certified	.20
Silver	.30
Gold	.40
Platinum	.50

- 13-1-6 REQUIRED COMMON OPEN SPACE. (5/9/95, Case TA-95-01, Ord. No. 022-95)

- 13-1-6.1 A quantity of common open space shall be required within a Planned Unit Development. The exact amount of common open space required will be determined by the density of the proposed development, types of dwelling units, the topography of the site and the natural features of the site. For any use other than Single Family Dwelling, which requires the approval of a site plan, the provisions of Section 19-5-6 shall control and shall be complied with. (4/11/78; 5/5/95, Case TA-95-01, Ord. No. 022-95)

For Single Family Dwelling-type PUD developments not exceeding the Conventional Development Density, no less than fifteen (15) percent of the gross acreage shall be common open space. Conventional Development Density is defined as a figure representing the achievable density of development within the underlying district where no PUD approval is requested. For purposes of this Ordinance, the following figures shall be used:

<u>Underlying District</u>	<u>Conventional Development Density</u>
LR	2.8 dwelling units per acre
MR	4.2 dwelling units per acre
HR and B-2	7.8 dwelling units per acre

For Single-Family Dwelling-type PUD developments exceeding the Conventional Development Density, the minimum required Common Open Space shall be calculated by dividing the Proposed Density by the Conventional Development Density above and then multiplying that ratio by the fifteen (15) percent common open space figure. (5/9/95, Case TA-95-01, Ord. No. 022-95)

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- 13-1-6.2 A portion of the required common open space shall be required to be developed recreation space, which shall be improved by the developer. This developed recreation space shall be designated to meet the needs of the residents of the proposed development. Provisions of separate adult and tot lot recreation areas is encouraged. The parks and recreation section of the Winchester Comprehensive Plan shall be used in evaluating the amount of developed recreation space proposed. (5/9/95, Case TA-95-01 Ord. No. 022-95)
- 13-1-6.3 Common open space shall be defined for the purpose of this Section as the total area of land, water, or land and water within the boundaries of a Planned Unit Development designated and intended for use and enjoyment as open areas, and not improved with a building, structure, street, road, or parking area, except for recreational structures and parking for recreational use. Said common open space shall not include yards less than thirty (30) feet wide between buildings and yards less than fifty (50) feet wide located between buildings and non-recreational parking spaces. Common Open space includes developed recreation space, and shall be accessible and available to all occupants of dwelling units for whose use the space is intended. (5/9/95, Case TA-95-01, Ord. No. 022-95)
- 13-1-6.4 Developed recreation space shall be defined for the purpose of this Article as that portion of the common open space within the boundaries of a Planned Unit Development that is improved for recreational purposes. Such improvements may include, but shall not be limited to, community gardens, pedestrian ways and bicycle paths, play lots and playgrounds, tennis courts and swimming and boating areas. (4/11/78; 10/12/10, Case TA-10-418, Ord. No. 2010-51)
- 13-1-6.5 All open space, including developed open space, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.
- 13-1-7 MANAGEMENT OF OPEN SPACE. As per Section 5-10 of this Ordinance. (2/14/89, Case TA-88-17, Ord. No. 006-89)
- 13-1-8 FAILURE TO MAINTAIN COMMON OPEN SPACE. As per appropriate portions of Section 5-10-3 of this Ordinance. (2/14/89, Case TA-88-17, Ord. No. 006-89)
- 13-1-9 MAXIMUM HEIGHT OF BUILDINGS.
- 13-1-9.1 The maximum height of any building or structure in a PUD District shall be fifty-five (55) feet, subject to the provisions of this Article, and subject to approval by the Governing Body.

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13-1-9.2 Church spires, belfries, cupolas, chimneys, flues, flag poles, television antennas, radio aerials, and elevator and stair penthouses are exempt.

13-1-10 STREETS, LOTS, AND BLOCKS.

13-1-10.1 Variations from the regulations in the Land Subdivision Ordinance pertaining to streets, lots, and blocks, may be approved when it can be shown that:

- a. Safe and convenient access will be provided to dwelling units, open space, community facilities, and other nonresidential areas in the development; (4/11/78)
- b. Adequate access and circulation for emergency and service vehicles will be provided; and (4/11/78)
- c. Principal vehicular access points will be designed to permit smooth traffic flow and minimum hazards to vehicular, bicycle, and pedestrian traffic. (4/11/78)

13-1-10.2 Private streets may be permitted in a PUD development, provided that their construction standards are approved by the City Engineer; adequate provisions are made for their maintenance of the private streets; and the standards outlined in Section 13-1-10.1a through 13-1-10.1c are met. (4/11/78; 2/14/89, Case TA-88-17, Ord. No. 006-89)

13-1-10.3 Failure to maintain private streets. As per appropriate portions of Section 5-10-3 of this Ordinance. (2/14/89, Case TA-88-17, Ord. No. 006-89)

13-1-11 UTILITIES.

Within the PUD development, all utilities, including telephone, television cable, and electrical systems, shall be installed underground. Appurtenances to these systems which require aboveground installations must be effectively screened and thereby may be exempted from this requirement.

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SECTION 13-2. PLANNED COMMERCIAL DISTRICT - PC

- 13-2-1 STATEMENT OF INTENT. The intent of the PC District shall be to permit the development of neighborhood and community commercial development in areas appropriate for commercial land use. It is intended for commercial development to be planned with carefully organized buildings, service areas, parking areas, and landscaped open space; to reduce marginal traffic friction below that which would result from strip commercial development along highways; and to protect property values in surrounding neighborhoods. (3/8/05, Case TA-04-08, Ord. No. 007-2005)
- 13-2-2 WHERE PERMITTED. PC District shall be permitted only in areas appropriate for commercial land use.
- 13-2-3 USE REGULATIONS. Structures, not exceeding eight thousand (8,000) gross square feet of floor area, nor containing drive-thru facilities other than one ATM for banks and financial institutions, or land to be used shall be for one or more of the following uses:
- 13-2-3.1 Accessory uses, as defined.
- 13-2-3.2 Banks and financial institutions, not including short-term loan establishment, as defined in Article 1. (4/3/10, Case TA-10-21, Ord. No. 2010-06)
- 13-2-3.3 Convenience and service establishments such as, but not limited to, barber shops, beauty parlors, and tailors
- 13-2-3.4 Libraries, places of worship, schools.
- 13-2-3.5 Day nurseries and day care centers.
- 13-2-3.6 Offices, business and professional
- 13-2-3.7 Pet shops, but excluding boarding kennels on the premises.
- 13-2-3.8 Public utilities, such as underground lines, distribution transformers, pipes, meters, water and sewer lines, booster or relay stations.
- 13-2-3.9 Repair services or businesses with equipment not exceeding five (5) horsepower.
- 13-2-3.10 Restaurants
- 13-2-3.11 Retail stores, except Adult Book stores and shops

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- 13-2-3.12 Off-Street Parking Areas as defined in Section 18-6 of this Ordinance for permitted and conditional uses in the PC District.
- 13-2-3.13 Signs in accordance with Section 18-8 of this ordinance.
- 13-2-3.14 Bakeries
- 13-2-3.15 Physical fitness or martial arts establishments.
- 13-2-4 USES PERMITTED WITH A CONDITIONAL USE PERMIT.
- 13-2-4.1 All uses outlined in sections 13-2-3.1 to 13-2-3.15 of this Ordinance exceeding eight thousand (8,000) gross square feet of floor area, or containing drive-thru facilities other than one ATM for banks and financial institutions.
- 13-2-4.2 Residential Uses, conditioned on the following:
- a. Residential uses shall be secondary to primary PC use;
 - b. Residential uses shall occupy only the upper floors of a structure within the PC District;
 - c. Residential uses shall not exceed the square footage of the primary use within any given structure.
 - d. Minimum landscaped open space shall be provided for residential uses in the PC District as per the PUD District.
 - e. Vehicle access and entryways to residential units shall be independent of those serving primary uses in the PC District.
 - f. The Governing Body, upon Staff and the Commission recommendation, shall determine that residential uses within the PC district are in the best public interest and that said uses establish an improved organization of land uses within the district beyond that which would otherwise be achieved without the residential uses.
 - g. Other relevant data pertaining to residential development as per Section 13-4 of this Ordinance.

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- h. The Governing Body, upon recommendation by Staff and the Commission, may elect to reject any application for a conditional use permit for residential uses within the PC district, when findings indicate that the said use is not in the public interest.
- i. Residential uses shall only be located on portions of PC sites abutting residential zones.

- 13-2-4.3 Transmitting and receiving facilities, excluding new towers, for cellular communications systems and similar communications systems in accordance with Section 18-2-1.2 of this Ordinance.
- 13-2-4.4 Protected Population Residences in accordance with section 3-1-11.
- 13-2-4.5 Nightclubs and dance halls.
- 13-2-4.6 Commercial Records Center
- 13-2-4.7 Fire and Rescue Squad Stations
- 13-2-4.8 Museums/Art Galleries
- 13-2-4.9 Radio and television broadcasting stations, studios, or offices.
- 13-2-4.10 Theaters, motion picture theaters, and assembly halls.
- 13-2-4.11 Wholesale businesses.
- 13-2-5 AREA REGULATIONS.
- 13-2-5.1 The minimum permitted size for any PC District shall be two (2) contiguous acres. Additional land may be added to an existing PC District if it is adjacent (except for public roads) thereto, and forms a logical addition to the existing PC District and is under the same ownership or control. In cases where the applicant can show that strict adherence to the two-acre minimum would produce unnecessary hardship and preclude development which is more compatible with the adopted Comprehensive Plan than that permitted without PC zoning the Commission may recommend and the Governing Body approve a waiver of the two-acre minimum. (3/10/92, Case TA-91-06, Ord. No. 003-92; 3/8/05, Case TA-04-08, Ord. No. 007-2005)
- 13-2-5.2 The procedure for an addition shall be the same as if an original application were filed.

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- 13-2-6 MINIMUM LANDSCAPED AREA. The minimum landscaped open space in any PC District shall not be less than .25 times the gross acreage of the lot. Such landscaped open space shall not be generally open to vehicles, and shall be used, in part, to buffer and shield any adjoining residential districts from adverse effects of commercial operations.
- 13-2-7 MAXIMUM HEIGHT OF BUILDINGS.
- 13-2-7.1 The maximum height of any building or structure in a PC District shall be thirty-five 35 feet.
- 13-2-7.2 Chimneys, flues, flag poles, television antennas, radio aerials, and equipment penthouses are exempt.
- 13-2-8 REQUIREMENTS WHEN A PC DISTRICT ADJOINS OTHER ZONING DISTRICTS. When a PC District adjoins another zoning district, the front, side, or rear yard setbacks only on the perimeter of the PC District shall conform to the abutting zoning districts as provided in this ordinance.
- 13-2-9 DESIGN STANDARDS.
- 13-2-9.1 The shape of the district shall be suitable for the type of development proposed and shall facilitate safe and convenient ingress and egress as well as vehicular and pedestrian circulation within the district.
- 13-2-9.2 Landscaping or other devices shall be used to screen surrounding residential districts from undesirable views into the PC District and to screen the PC Districts from undesirable external exposures. In particular, all service and loading areas shall be screened from view from first floor windows in adjacent residential districts.
- 13-2-9.3 Principal vehicular access for the general public shall be only from major arterials or minor arterials. Vehicular access from minor streets through residential neighborhoods shall generally be avoided, and where permitted, shall be so located, designed, and controlled so as to be primarily for convenience of residents or adjoining residential areas and not for general public access. Pedestrian access shall be provided at suitable locations within the district, and shall as a general rule be separated from vehicular access points in order to reduce congestion, marginal friction, and hazards.

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13-2-9.4 At principal vehicular access points, service drives, turnout lanes, and merging lanes may be required, with length and width as appropriate to the anticipated flow of traffic and exits and along service drives, turnouts, or merging lanes. Whether required or provided voluntarily, such service drives, or turnout and merging lanes may be included as part of the required yard adjacent to the collector street, minor arterial, or major arterial except that no such service drive or land, and no vehicular entrance or exits, shall run through any part of any required landscaped area.

SECTION 13-3. RESERVED.

SECTION 13-4. APPLICATION.

13-4-1 Planned development districts shall be established by amendment to the official zoning map, in accordance with the provisions of Article 22. The application for rezoning to a PUD or PC District shall be accompanied by ten (10) copies of a development plan.

13-4-2 The development plan shall contain the following data, together with supplementary data for a particular development, as reasonably deemed necessary by the Director of Planning or his agent:

13-4-2.1 Development site information:

- a. Vicinity map at a scale of not less than one (1) inch = 2000'.
- b. Boundary survey including area of the tract related to true meridian or USC & GS State grid north.
- c. Deleted. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- d. Total area of the tract.
- e. Abutting street names, width, and route numbers.
- f. Owners, zoning districts, and uses of each adjoining tract.
- g. Topographic map with minimum contour intervals and scale acceptable to the administrator.

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13-4-2.2 Development design information:

- a. A concept plan, illustrating the location and functional relationship between all proposed land uses.
- b. Land use plan or plans showing the location and arrangement of all proposed land uses, including the height and number of floors of all buildings (other than one family and two family dwellings) both above and below finished grade; the building setbacks from the development boundaries and adjacent streets, roads, alleys, and ways; the proposed traffic circulation pattern including the location and width of all streets, driveways, and loading areas; all proposed open space areas including common open space, dedicated open space, and developed recreational open space; the approximate location of existing and proposed utility systems of sanitary sewer, storm sewer, water, electric, telephone, and gas lines.
- c. A plan or statement showing the location and design of all screening, and indicating the type and height of such screening.
- d. A plan or statement detailing the exact number of improved developed recreational open space, and all covenants, restrictions, and conditions pertaining to the use, maintenance, and operation of common spaces, and the percentage of the tract to be used as open space.
- e. For a PUD District, a statement in tabular form of the anticipated residential density and the total number of dwelling units, the percentage of the tract which is to be occupied by structures, and the total floor area (commercial) of all commercial uses.
- f. For a PC District, a statement in tabular form of the anticipated commercial floor area.
- g. Deleted. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- h. When the development is to be constructed in stages or units, a sequence of development schedule showing the order of construction of each principal functional element of such stages or units, the approximate completion date for each stage or unit. (10/11/83, Case TA-83-06, Ord. No. 034-83)

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- i. A Plan or report indicating the extent and timing of all off-site improvements, such as road, sewer, and drainage facilities, necessary to construct the proposed development, which plan or report shall relate to the sequence of development schedule if the development is to be constructed in stages or units. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- j. A statement showing the relationship of the planned development to the Comprehensive Plan of the City.
- k. Where required by the Commission, a traffic impact analysis, showing the effect of traffic generated by the project on surrounding roads.
- l. Where required by the Commission, a fiscal impact analysis, listing City revenue generated by the project and City expenditures resulting from the construction of the project.

13-4-3 REZONING TO PLANNED DEVELOPMENT DISTRICT. (11/14/89, Case TA-89-07, Ord. No. 030-89)

13-4-3.1 All terms, conditions, safeguards, and stipulations made at the time of the rezoning to Planned Development status, including the approval of the Development Plan, with or without specified modifications by the governing body, shall be binding upon the applicant or any successors in interest. Deviations from approved plans or failure to comply with any requirements, conditions, or safeguards shall constitute a violation of these zoning regulations.

13-4-4 SITE PLANS. (11/14/89, Case TA-89-07, Ord. No. 030-89)

13-4-4.1 Approval of the development plan and the application for rezoning shall constitute authority for the applicant to prepare site plans in accordance with Article 19 of this Ordinance, and in conformity with the approved development plan.

13-4-4.2 The site plans shall be for the entire project, unless the project is approved in stages, in which case the site plans for the first stage shall be approved before site plans for any subsequent stages may be submitted.

13-4-4.3 The site plan for a particular development stage, other than the first, shall not be approved until construction has been initiated on the immediately preceding stage or unit.

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- 13-4-4.4 Minor deviations from the development plan shall be permitted in the site plan when the Director of Planning determines that such are necessary or desirable due to requirements of topography, drainage, structural safety, vehicular or pedestrian circulation, or good planning; and such deviations will not materially alter the character of the approved development plan, including the proposed development sequence. In no case shall such deviations increase the residential density of a planned development, increase the floor area of a PC development by more than five (5) percent or ten thousand (10,000) square feet, whichever is less, or increase the amount of traffic likely to be generated by more than two (2) percent.
- 13-4-4.5 The first site plan shall be submitted within one (1) year after the date of approval of the development plan. If a site plan is not submitted within said period, approval of the development plan, and consequent authority to submit a site plan, shall terminate any development by the applicant in accordance with the PUD and PC regulations, and shall require a resubmission of a development plan in accordance with the procedures set forth in Section 4-5 of this Article. Within thirty (30) days prior to the expiration of said one (1) year period, the applicant may apply to the Governing Body for an extension of time within which to submit a site plan in conformity with the approved development plan. The Governing Body may grant such extension, upon good cause shown by the applicant, but such extension shall not under any circumstances exceed an additional one (1) year period; and no more than two (2) such extensions may be granted. If such application is denied, approval of the development plan, and consequent authority to submit a site plan, shall terminate at the end of said one (1) year period. Upon termination of authority to develop as herein provided, the Governing Body may initiate a reclassification of the subject property to an appropriate zoning district other than PUD or PC.
- 13-4-4.6 A subdivision plat, in recordable form, shall be submitted with each site plan if necessary.
- 13-4-4.7 No building permit shall be issued for any building or structure not indicated on the approved site plan.
- 13-4-5 REVISION OR REAPPROVAL OF DEVELOPMENT PLAN. (11/14/89, Case TA-89-07, Ord. No. 030-89)
- 13-4-5.1 If an applicant wishes to make changes to an approved development plan greater than those permitted by Section 13-4-4.4, or if the development plan has expired pursuant to the provisions of Section 13-4-4.5, he may submit a new development plan for revision or re-approval. The development plan for the affected portions shall be reviewed pursuant to the Conditional Use Permit

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provisions of Section 18-2, as applicable. However, the development plan shall not be required to include the items required by Section 18-2-3.3. The plan shall provide all information required by Section 13-4-2.

The public notice shall include a statement that the request is for approval of a revision to or re-approval of the development plan for a Planned Development District.

- 13-4-5.2 No development plan may be revised or re-approved under this section which varies from the originally approved development plan by increasing density by more than 5% or 50 units, whichever is less, creating a reduction in the open space provided in excess of 5%, or creating an increase in the traffic generated by the development in excess of 5%. If the applicant wishes to make any changes greater than those allowed by this Section, the application shall be treated as a new rezoning application, pursuant to the provisions of this Article.
- 13-4-5.3 Each application for revision or re-approval of a Development Plan shall be accompanied by a fee as per Section 23-8 to defray the cost of processing said application, which amount shall be paid to the City Treasurer. (3/13/90, Case TA-89-12, Ord. No. 008-90; 3/14/06, Case TA-05-07, Ord. No. 09-2006).