

## **NOTICE**

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**CHAPTER 1153  
PLANNED UNIT DEVELOPMENT**

1153.01	Planned Unit Residential Development	1153.03	Procedures and Requirements for Development Concept Plan and Final Development Plan Review and Approval
1153.02	Planned Commercial Development		

**SECTION 1153.01 PLANNED UNIT RESIDENTIAL DEVELOPMENT.**

A. Purpose

There are in the City of Kettering certain tracts of land where it is in the best interest of the City and in keeping with the need to promote the public health, safety and general welfare, and the policies expressed in this Zoning Code, to allow for a flexible development of land use in order to maximize the preservation of open space through the clustering of residential units. In order to accomplish this, planned unit residential developments are hereby authorized to contain a variety of dwelling types, including single-family, two-family and multi-family dwellings of townhouse and garden apartment types at a maximum density permitted in the district in which the planned unit residential development is proposed, and to permit the flexible spacing of lots and buildings in order to encourage:

1. The separation of pedestrian and vehicular circulation;
2. The conservation of natural amenities of the landscape;
3. The provision of readily accessible open space;
4. The creation of functional and interesting residential areas; and
5. The provision of a necessary complement of community facilities.

A subdivision review under the provisions of the Kettering Subdivision Regulations shall be carried out as an integral part of the review of a planned unit residential development under this section.

B. Definition

Planned Unit Residential Development: An area to be developed as a single entity according to an approved final development plan containing one or more residential structures, which area may include appropriate commercial or quasi-public uses designed and intended primarily for the use of the residents of the development.

C. Fees

Any person filing an application for review of a planned unit residential development in conformance with this Section 1153.03, whether existing or proposed, upon making application shall pay a filing fee as listed in the fee schedule established by the City of Kettering. That fee shall include the cost of reviewing the plans, public notice and all other costs incurred therein to determine conformance with Part Eleven of the Codified Ordinances.

D. Development Concept Plan

1. Any person seeking to develop land for a new Planned Unit Residential Development shall submit a development concept plan as specified in §1153.03(B).
2. If a parcel of land has been developed as a Planned Unit Residential Development in accordance with zoning regulations in effect prior to the adoption of this Ordinance, the approved plans shall be considered to be the approved Development Concept Plan in executing this Ordinance.

E. Final Development Plan

1. Once a development concept plan has been approved for a new residential development, an applicant must submit a final development plan as specified in §1153.03(C).
2. A final development plan must be submitted for all major changes to existing residential developments as specified in §1153.03(C)(1).
3. A final development plan is not required for minor or insignificant changes of residential developments. Proposals for minor or insignificant changes shall be submitted to the Zoning Administrator as specified in §1153.03(C)(2) and (3).

F. Subdivision Review

Wherever the provisions of this section and the subdivision regulations are in conflict, the more restrictive or detailed requirements shall be met, unless waived or altered by the Planning Commission.

G. Conditions for Approval

Approval of a development concept plan or of a final development plan shall be given if a Planned Unit Residential Development satisfies all of the following:

1. The development is consistent with the comprehensive plan for the City as reflected in this Zoning Code and planning studies approved by the Planning Commission.
2. The development is an effective and unified treatment of the development possibilities on the project site; and the development plan makes appropriate provision of the preservation of streams and stream banks, wooded cover, rough terrain and similar areas.
3. The development is planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.
4. Off-street parking spaces are provided in accordance with Chapter 1173, Off-Street Parking and Loading Access Control and Transportation.
5. There is a beneficial relationship between the proposed development and the neighborhood in which it is to be established.
6. There are adequate services and utilities available or proposed to be made available in the construction of the project.
7. The proposal meets the objectives for planned unit residential development as expressed in this section.
8. The proposal meets all of the regulations for planned unit residential development.

H. Commercial Uses

If the Planning Commission determines it is consistent with the public health, safety and general welfare and necessary for the overall development and usefulness of the planned unit residential development, commercial uses may be permitted by the Planning Commission in the development provided they are

designed and intended primarily for the use of the residents of that development. All such uses shall:

1. Be located within a multiple dwelling, an administration building for the development or a building providing community facilities primarily serving the occupants of the development and their guests;
2. Have no business signs, advertising or displays visible from the outside of the building in which they are located; and
3. Have a total area which does not exceed five percent (5%) of the gross floor area of all dwellings within the development.

I. Calculation of Project Densities

The Planning Commission shall determine the number of dwelling units which may be constructed within the planned unit residential development by dividing the project area by either of the following:

1. The required lot area per dwelling unit which is required in the district in which the development is located; or
2. The required lot area per dwelling unit which is required in the district in which the development is located, as modified by any increases in density permitted under Subsection (L) of this Section 1153.01.

J. Determination of Project Area

The project area includes all of the land within the planned unit residential development except land which is allocated for public street rights-of-way; such rights-of-way are to be excluded from the project area computations.

K. Planned Unit Residential Development in More Than One District

If the planned unit residential development is in more than one (1) zoning district, the number of allowable dwelling units must be separately calculated for each portion of the development that is in a separate zone; and the units in all the zoning districts must then be combined to determine the number of dwelling units allowable in the entire development. However, the distribution of dwelling units within the development is not to be affected by existing zoning district boundaries.

- L. Standards for Increase in Density
1. The Planning Commission may authorize an increase in the density of the planned development under the following standards:
    - a. For undeveloped common open space above the minimum amount required, a maximum increase of three percent (3%).
    - b. For improved common open space above the minimum amount required, a maximum increase of five percent (5%).
    - c. For distinctiveness and excellence in site, design and landscaping, a maximum increase of five percent (5%).
  2. In the discretion of the Commission, density may be increased up to the maximum amount allowable within each category. However, the density in the planned unit residential development may not exceed by more than ten percent (10%) the density which is permitted in subsection I 1 of this Section 1153.01.
- M. Controls on Density Increase
1. If the Planning Commission finds that any of the following conditions would be created by an increase in density permitted by subsection L of this Section 1153.01, it may then use either of the provisions listed in subparagraph (N),(2) immediately below.
    - a. Congested or unsafe access to the planned unit residential development; or
    - b. Traffic congestion in the streets which adjoin the planned unit residential development; or
    - c. An excessive burden on parks, recreational areas, schools and other public facilities which serve or are proposed to serve the development.
  2. The Planning Commission may use either of the following provisions in order to control the conditions specified in Subparagraph M 1 immediately above.
    - a. Prohibit any increase in density; or
    - b. Limit the increase in density by an amount which is sufficient to avoid the creation of any of these conditions.

N. Spacing and Height of Buildings

1. The location of all structures shall be as shown on final development plans. The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood. All buildings shall be so located to avoid the casting of unbroken shadows on adjoining parcels for longer than one hour a day.
2. District lot areas, frontage and yard requirements may be waived by the Planning Commission provided that the overall density standards in Subsection (J) are maintained and that the Planning Commission determines that the proposed development complies with the intent of this Section.

O. Perimeter Requirements

If the Planning Commission determines that the topographical or other barriers do not provide sufficient buffer between the planned unit residential development and contiguous land uses to avoid hazardous impact upon the economic values of contiguous real estate, the Planning Commission shall impose either or both of the following requirements:

1. Structures and parking areas located on the perimeter of the development must be set back by a distance sufficient to protect against an adverse impact upon the economic values of contiguous land;
2. Structures located on the perimeter of the development must be permanently screened in a manner which is sufficient to protect against adverse impact on the values of contiguous land. The screening requirements in subsection Q of this Section 1153.01 are applicable to this subsection P.

P. Open Space Requirements

A planned unit residential development may be approved if the final development plan contains areas to be allocated for common open space that are contained below:

1. No open area may be accepted as common open space under the provisions of this section unless it meets the following standards:
  - a. Common open space must comprise at least twenty percent (20%) of the project area as defined in subsection J of this

Section 1153.01, excluding from such open space areas used for vehicle parking and circulation.

- b. The location, shape, size and character of the common open space must be compatible with the planned unit residential development.
- c. Common open space must be reserved for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned unit residential development, considering its size, density, expected population, including ages and number, topography and the number and type of dwellings to be provided.
- d. Common open space must be improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, landscaping and other improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the existing natural features of this common open space.
- e. The development schedule which is part of the final development plan must coordinate the improvement of the common open space, the construction of buildings, structures, landscaping and other improvements in the common open space and the construction of residential dwellings in the planned unit residential development.
- f. If the final development plan provides for buildings, structures, landscaping and other improvements in the common open space, the developer must provide a bond or other adequate assurance that the buildings, structures, landscaping and other improvements will be completed. Upon request of the developer, the Planning Commission may delay the requirements of posting bond, such delay to be based upon the development schedule. If the developer does not complete the buildings, structures, landscaping and other improvements within the time set forth in the schedule, then the Planning Commission shall require that a bond be provided for the remainder of the improvements. The Planning Commission shall release the bond or other assurance as the buildings,

structures, landscaping or other improvements have been completed according to the development plan.

- g. The use and improvement of the common open space must be planned in relation to any existing or proposed public or semi-public open space which adjoins or which is within one thousand five hundred (1,500) feet of the perimeter of the planned unit residential development.
2. All land shown on the final development plan as common open space shall be conveyed or owned under one of the following options:
    - a. It may be conveyed to a governmental agency if such agency agrees to maintain the common open space and any buildings, structures, landscaping or other improvements which have been placed on such land.
    - b. It may be conveyed to trustees provided in a document (recorded in the land records of the county recorder) establishing an unincorporated association or similar organization for the maintenance of the planned unit residential development or to an Ohio corporation established for that purpose. The common open space shall be so conveyed subject to covenants to be approved by the Planning Commission which restrict the common open space to the uses specified on the development plan and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose. These covenants must be recorded in the land records of the county recorder.
    - c. It may be declared to be common area in a condominium declaration with the result that it is owned in common by the owners of all units in that condominium.
  3. No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use under Section 1153.03. However, no change of use authorized by this city may be considered as a waiver of any of the covenants in a document (recorded in the land records of the county recorder) limiting the use of common open space areas; and the right to enforce these covenants is expressly reserved to this city.
  4. If the common open space is not conveyed to and accepted by a public agency, the following methods of enforcement of the maintenance covenants shall be provided.

The restrictions governing the use, improvement and maintenance of the common open space shall be recorded as covenants running with the title to the land with the city being a beneficiary of those covenants. The language shall declare and grant an option to the city for an easement, and shall declare that any work by the city on the property to enforce this covenant shall constitute a special benefit to the land and its then owners, for which benefit special assessments may be levied by the city.

5. The Zoning Administrator shall not issue a permit for any building or structure shown on the final development plan for any stage of the planned unit residential development unless the common open space allocated to that stage by the development schedule has been conveyed or has been made subject to covenants as described in subparagraph (2) above and in this subparagraph (4).

Q. Screening

The planned unit residential development shall be effectively screened from adjoining existing uses so as to protect their privacy and amenity. The development shall comply with the requirements contained in Chapter 1169.

R. Signs

The planned unit residential development shall comply with the requirements contained in Section 1171.12.

## **SECTION 1153.02 PLANNED UNIT COMMERCIAL DEVELOPMENT.**

A. Planned Unit Commercial Development

1. There are certain tracts of land in the City of Kettering where it is in the best interests of the City and in keeping with the need to promote health, safety and general welfare and the policies expressed in this Zoning Code to allow for, and in certain situations require, property to be planned, developed, operated and maintained as a single entity. Such areas may contain one or more structures to accommodate either (i) business, (ii) office, (iii) a mixture of business and office, or (iv) industrial uses, and appurtenant commons areas and other uses incidental to the predominant uses. Such uses shall be designed in accordance with a development plan in order to provide safe, efficient and adequate circulation and parking facilities, as well as to accomplish harmonious design and landscaping which will provide

safe, convenient, efficient and attractive facilities which will harmonize with surrounding area development. In any O-Office District, B-Business District or I-Industrial District, any tract of lane one (1) acre or more shall be developed as a Planned Unit Commercial Development.”

2. A nonconforming Planned Commercial Center is any parcel of land, developed prior to the adoption of this ordinance, that would have been required to comply with the Planned Unit Development provisions of Section 1153.02(A)(1) if such parcel had been developed subsequent to the adoption of this Zoning Code. Such parcels shall be permitted to continue, unless abandoned and not used for a period of six (6) months. The term "abandoned" shall not refer to any parcel of land that has been put up for sale or rent. Modifications to a non-conforming Planned Commercial Center must be reviewed in accordance with the procedure established in 1153.03(G).

B. Development Concept Plan

1. Any person seeking to develop land for a new Planned Unit Commercial Development shall submit a development concept plan as specified in §1153.03(B).
2. If a parcel of land has been developed as a planned Unit Commercial Development in accordance with zoning regulations in effect prior to the adoption of this Ordinance, the approved plans shall be considered to be the approved Development Concept Plan in executing this Ordinance.

C. Final Development Plan

1. Once a development concept plan has been approved for a new commercial development, an applicant must submit a final development plan as specified in §1153.03(C).
2. An applicant shall submit to the Zoning Administrator for review, a final development plan for all major changes to existing commercial developments as specified in §1153.03(C)(1).
3. A final development plan is not required for minor or insignificant changes to existing commercial developments. Proposals for minor or insignificant changes shall be submitted as specified in §1153.03(C)(2) and (3).

E. Required Conditions

The Commission shall investigate and ascertain whether the location, size and other characteristics of the site, and the proposed plan, comply with the following standards:

1. The Commission may require the applicant to present evidence that there is the need for a development in order to provide Business, Office, a mixture of Business and Office, or Industrial facilities for the convenience and necessity of people who reside in, work in or utilize the area.
2. The proposed development is adequate in size to provide Business, Office, a mixture of Business and Office, or Industrial facilities for the population which reasonably may be expected to be served by such facilities taking into effect the surrounding development.
3. The plan provides for Business, Office, a mixture of Business and Office, or Industrial facilities of safe and harmonious design consisting of establishments in a single building or in groups of buildings, together with adequate and properly arranged circulation, parking facilities and landscaping.
4. The proposed development is at a location where traffic congestion does not exist at present on the streets to be utilized for access to the proposed development, and where such congestion will not likely be created by the proposed development, or where such congestion will be obviated by presently projected improvements of access thoroughfares, by demonstrable provision in the plan for adequate streets, entrances and exits, and by internal provisions for traffic and parking.

F. Permitted Uses

The uses permitted in a planned unit commercial development shall be those uses permitted by the zoning district containing such development, excluding nonconforming uses as provided for in Section 1153.02(A)(2). Refer to Sections 1157.02(A), 1161.02(A) and 1165.02 Principal Permitted Uses.

G. Regulations

The following regulations shall apply to a planned unit commercial development:

1. Building heights

No structure shall exceed the height requirements as set forth in this section. A structure shall be limited to height requirements of the district in which it is located, except when such structure is adjacent to a non-residential zoned district. In such cases there shall be no maximum height limit other than the fact that a building height may be limited by the Planning Commission if it determines that one of the following conditions exist:

- a. The height proposed would interfere with pre-existing land uses because it is inconsistent in scale,
- b. It would unreasonably interfere with access to adjacent land uses of light and air,
- c. It would generate such high density of land use as to create traffic congestion which would interfere with the adjacent land uses.

2. Yards

- a. For B-Business zoned PUDs of two (2) or more acres.
  - (1) A principal structure shall not be less than a distance of one and one-half (1-1/2) times its height or fifty (50) feet, whichever is greater, from any boundary of the Planned Unit Commercial Development tract which adjoins a residential district.
  - (2) When a Planned Unit Development tract adjoins a non-residential district there shall be a minimum distance of thirty (30) feet from the principal structure to the boundary of such district.
- b. For B-Business zoned planned unit developments of less than two (2) acres, refer to Sections 1161.06 through 1161.08 except as may be modified by Sections 1167 and 1169.
- c. For O-Office zoned planned unit developments, refer to Sections 1157.07 through 1157.09 except as may be modified by Chapter 1169, Bufferyards and Landscaping.

d. For I-Industrial zoned planned unit developments, refer to Sections 1165.07 through 1165.10 except as may be modified by Sections 1167 and 1169.

3. Accessory structures

Accessory structures shall comply with the requirements of subparagraph (2) hereof for a principal structure.

4. Screening and landscaping

The planned unit commercial development shall comply with the requirements contained in Chapters 1167 and 1169.

5. Parking space

The amount of off-street parking shall be provided in accordance with the appropriate section of 1173.04, depending upon the specific uses to be included in the development.

6. Loading space

The off-street loading space in a Planned Unit Commercial Development shall meet the requirements of Section 1173.05, Off-street Loading.

7. Signs

The Planned Unit Commercial Development shall comply with the requirements contained in Section 1171.11.

H. Conditions

The Planning Commission may approve a plan for a planned unit commercial development subject to such conditions as it determines to be reasonably necessary to carry out the policies of this section.

I. Fees

Any person filing an application for review of a planned unit commercial development under this section, whether existing or proposed, shall upon making application pay a filing fee, as listed in the fee schedule established by the City of Kettering. Said fee shall include the cost of reviewing the plans, public notice and all other costs incurred to determine conformance with Part Eleven of the Codified Ordinances.

**SECTION 1153.03 PROCEDURES AND REQUIREMENTS FOR DEVELOPMENT CONCEPT PLAN AND FINAL DEVELOPMENT PLAN REVIEW AND APPROVAL.**

A. Development Concept Plan

1. Notwithstanding any other provision of this Zoning Code no plan or zoning certificate shall be approved for any type of planned unit development of any property until a plan for the site has been approved, pursuant to the provisions of this Section. The application for development concept plan approval shall include the following:
  - a. The location, size and property lines of the site in question.
  - b. The existing land use, topography and areas of vegetation on the site, streets and utilities serving the site, and the land uses of contiguous properties.
  - c. Proposed land uses, approximate building footprints and heights, parking areas, vehicular and pedestrian circulation paths, bufferyards and open space areas.
  - d. The manner in which the site will be served by utilities.
  - e. General areas of the site where natural features will be disturbed including a grading plan (as warranted) and areas of proposed new landscaping.
  - f. Proposed density, floor area and staging of development.
  - g. A written description of the development plan for the site, including the marketing strategy.
  - h. How the plan for the proposed site fits in with future development of the remainder of the parcel or parcels under the same ownership.
  - i. Such other information as the City or any of its boards, commissions, departments or officers may reasonably require.
2. All plans and documents submitted as required by this chapter hereof shall be prepared to such scale, of such size and submitted in as many copies as may be determined by the Zoning Administrator.

3. If a parcel of land has been developed as a Planned Unit Commercial Development in accordance with zoning regulations in effect prior to the adoption of this Ordinance, the approved plans shall be considered to be the approved Development Concept Plan in executing this Ordinance.

B. Development Concept Plan Procedure

1. An application for approval of a development concept plan shall be submitted to the Zoning Administrator for review. The Zoning Administrator shall forward the application to the Planning Commission with comments, and that commission shall then render a decision after a public hearing.
2. If the Commission decides upon the approval of a development concept plan and an official vote of final approval is taken, then such plan, or portion thereof, shall be filed as a final plat following the procedure of Chapter 1109 (Subdivision Procedure), and shall be recorded in the office of the county Recorder. Upon recording of the final plat, the Zoning Administrator shall be authorized to issue a zoning certificate to permit the proposed planned unit development project to be developed in conformity with the final development plan as approved.
3. The Planning Commission's decision on the concept plan may be appealed to the City Council which shall render a decision after a public hearing.

C. Final Development Plan

1. Prior to the issuance of permits for construction in any Planned Unit Development with an approved Concept Plan or a non-conforming Planned Commercial Center, an applicant must submit a Final Development Plan to the Zoning Administrator for review.
  - a. The Final Development Plan shall be submitted to the Zoning Administrator within twenty-four (24) months after approval of the Development Concept Plan. If Final Development Plans are submitted as sections of the Development Concept Plan, such sections must be submitted within twenty-four (24) month intervals. These requests must be submitted within the requisite time frame, whether they be for part or for all of the area included in the Development Concept Plan; otherwise, approval of the Development Concept Plan shall become null and void as to such part or all of that area, unless an extension of time is

applied for prior to expiration of the time limit and is granted by the Planning Commission.

- b. Once approval for a Final Development Plan is obtained, construction of the approved plan shall commence within twenty-four (24) months of such approval; otherwise, approval of the Final Development Plan shall become null and void, unless an extension of time is applied for prior to the expiration of the time limit and is granted by the Planning Commission in accordance with the procedures outlined in 1153.03.
2. The Zoning Administrator shall review the submitted Final Development Plan to determine if it is consistent with the Approved Concept Plan.
    - a. If the Zoning Administrator determines that the final plan has no significant changes, as defined in 1153.03(H), and is consistent with the original concept plan, the Zoning Administrator may approve the final plan and issue the appropriate permits. This decision may be appealed to the Hearing Examiner. The Hearing Examiner shall render a decision at a regular meeting with no public hearing. The Hearing Examiner's decision may be appealed to the Planning Commission which shall render a decision upon reviewing the record and with no public hearing. The Planning Commission decision may be appealed to the City Council which shall render a decision after public hearing.
    - b. If the Zoning Administrator determines that the final plan includes a minor change, as defined in 1153.03(H), from the approved concept plan, the Zoning Administrator shall forward the application to the Hearing Examiner.
      - 1) The Hearing Examiner may approve the final plan, at a regular meeting with no public hearing. If the decision is not appealed, permits may be issued.
      - 2) The Hearing Examiner's decision may be appealed to the Planning Commission which shall render a decision upon reviewing the record and without conducting a public hearing. If the Planning Commission approves the plan and the decision is not appealed, permits may be issued. The Planning Commission decision may be

appealed to the City Council which shall render a final decision after conducting a public hearing.

c. If the Zoning Administrator determines that the final plan includes a major change, as defined in 1153.03(H), from the approved concept plan, the Zoning Administrator shall forward the application to the Planning Commission. The Planning Commission shall conduct a public hearing and render a decision. If the application is approved, a revised development concept plan shall be recorded in accordance with Section 1153.03(B)(3) and permits may be issued. The Planning Commission's decision may be appealed to the City Council which shall render a final decision after a public hearing.

3. Any changes other than those defined as major or minor shall be considered to be of no significance in the execution of this Ordinance.

D. Standards for Approving or Disapproving a Development Concept Plan, Final Development Plan, or Modifications to an Approved Final Development Plan.

The site planning guidelines under 1154.01 and 1154.02 shall be used when reviewing any Development Plan application. In addition, a finding must be made indicating that the intent of the requirements of 1153.01, for residential, or 1153.02, for Planned Unit Commercial Developments have been met or appropriately varied. And finally, notwithstanding any other provisions of the Zoning Code, the following standards shall be the basis of approving or disapproving any plan:

1. The development plan shall be in conformance with all adopted city ordinances, regulations, plans and policies affecting the site in question.
2. Except as waived by the Planning Commission, the development plan shall be consistent with the zoning district in which it is located and the provisions of this Chapter.
3. The location of buildings and open spaces and the circulation system and land use relationship shall be based on the site planning guidelines as specified in Section 1154.01 and in the City of Kettering Environmental Standards Manual.
4. The proposed development and the location of buildings, parking, streets and open spaces shall have an acceptable relationship to and be compatible with surrounding uses.
5. The proposed internal streets shall properly connect with surrounding streets as designated on the Official Thoroughfare Plan.

E. Public Hearing

1. Whenever a public hearing is required in this Chapter, notice of such hearing shall be given by one (1) publication in a newspaper of general circulation in the City of Kettering at least seven (7) days before the hearing. A copy of the proposed plan shall be on file in the office of the Zoning Administrator for examination.
2. In addition to the published notice, the Zoning Administrator shall give notice by first class mail, postage pre-paid, of the time, place and purpose of the public hearing to the following property owners:
  - A. All owners of separate ownership parcels of land (i.e., parcels owned by persons or entities who or which do not own any other parcel within the notification radius) within 200 feet of the perimeter boundary of the land under consideration.
  - B. If there are not twenty-five (25) separate ownership parcels within that 200 foot radius, the distance shall be extended in increments of fifty (50) feet until the total number of separate ownership parcels meets twenty-five (25).

Failure to give this notice by mail shall not invalidate any department actions nor any public hearing or subsequent decision.

F. Waiver of District Regulations

If the Planning Commission determined that the proposed development complies with the intent of this chapter it may waive compliance with the regulations of the underlying zoning district in which the development is located. However, the requirement that property may be used only for the permitted uses in that zoning district may not be waived.

G. Modifications to Approved Final Development Plan

1. The development shall conform to the approved Final Development Plan. The applicant, his successors and assignees shall make no alterations, additions, or deletions to the Final Development Plan, related documents or to the site, without prior approval of such modifications.
2. An application for approval of modifications to an approved Final Development Plan shall be submitted to the Zoning Administrator for review. The Zoning Administrator shall forward the application to the

Planning Commission with comments, which shall then render a decision after a public hearing. If the Commission approves the modifications, a revised Development Concept Plan shall be recorded in accordance with Section 1153.03(B)(2) and permits may be issued. The Planning Commission's decision may be appealed to the City Council, which shall render a final decision after a public hearing.

3. If approved, construction of the modifications to the approved Final Development Plan shall commence within twenty-four (24) months of such approval; otherwise, the approved modifications shall become null and void, unless an extension of time is applied for prior to the expiration of the time limit and is granted by the Planning Commission.

#### H. Significant Changes

Significant changes to an approved Development Concept Plan are defined as follows:

1. Major changes shall be defined as any of the following:
  - a. Greater than ten percent (10%) increase in the total impervious surface area or floor area as previously approved for the entire proposed development.
  - b. An increase in the number of approved residential units.
  - c. Changes in the perimeter boundaries of the land included in the total proposed development which requires subdivision approval.
  - d. A change greater than ten percent (10%) in the amount of land in the total proposed development designated for a specific use of the land.
  - e. Changes that reduce the distance between any internal paved surfaces or building and adjacent residentially zoned land by more than ten percent (10%).
  - f. Redesign of any building or structure to an extent which, as determined by the Zoning Administrator, significantly alters or interferes with or departs from the central architectural design or theme of the proposed development.



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