

## **ORDINANCE NO. 41**

AN ORDINANCE OF THE CITY OF DOVER, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR AMENDMENT OF THE ZONING ORDINANCES OF THE CITY TO PERMIT PLANNED UNIT DEVELOPMENTS; PROVIDING PROCEDURES FOR APPLICATION; PROVIDING THAT PLANNED UNIT DEVELOPMENTS BE PERMITTED IN ANY ZONING DISTRICT; PROVIDING FOR CONSIDERATION OF GOALS, CONFLICTING PROVISIONS, DENSITY, USES WITHIN A PLANNED UNIT DEVELOPMENT, COMMON AREAS, OPEN SPACE, PERIMETER REQUIREMENTS, BUFFERING, PUBLIC AND PRIVATE IMPROVEMENTS, APPLICATIONS, REVIEW, APPROVAL, CONSIDERATION OF PRELIMINARY AND FINAL PLANS, ADMINISTRATION, AND FEES; PROVIDING THAT ALL REMAINING PROVISIONS OF THE CITY'S ZONING ORDINANCE REMAIN UNCHANGED; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, public hearings to consider this Ordinance were held before the City Council March 18 and April 22, 1997, and it was determined that passage of the PLANNED UNIT DEVELOPMENT ORDINANCE was in the best interests of the citizens of the City of Dover.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DOVER AS FOLLOWS:

### **1. Intent**

The intent of the Planned Unit Development (PUD) is to permit building and development flexibility by permitting a PUD within any zoning district through a rezone and/or special use permit or in those areas designated as PUD on the City's official zoning map. Map designation of a PUD still requires the processing of a special use permit for a PUD.

### **2. Goals**

It shall be the policy to guide development of land and construction by encouraging PUDs to achieve the following goals:

- A. A choice of development environments by allowing a variety of building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements, provided appropriate amenities are provided by the development
- B. A more useful pattern of open space, more convenience in the location of accessory commercial uses, and services

- C. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns
- D. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets
- E. A development pattern in harmony with land use density, transportation and community facilities objectives of the Comprehensive Plan.

### **3. Conflicting Provisions**

Whenever there is a conflict or difference between the provisions of this Section and those of other Sections of this Ordinance, the provisions of this Section shall prevail. Subjects not covered by this Section shall be governed by the respective provisions found elsewhere in the City of Dover Zoning Ordinance.

### **4. Density**

The overall density of a PUD shall not exceed the requirements of the underlying zone(s) except as provided in Sections 10 and 16. Common open space and buffering may be included in calculation of the overall density.

If a PUD is located in more than one zoning district, the space and density requirements shall be calculated separately for each zone. However, the distribution of dwellings or other land uses within the PUD need not be affected by the zoning district boundaries.

### **5. Uses Permitted**

- A. A variety of residential, commercial, recreational or combinations of these land uses may be permitted within a PUD. Residential areas within PUD's may include both single-family and multi-family dwelling units such as townhouses, garden apartments, common wall single-family and multi-family dwellings, either as separately deeded lots, condominiums or as lease or rental housing.
- B. Zero lot line development and condominiums.

### **6. Ownership Requirements**

- A. The PUD application shall be filed in the name or names and with the consent of the recorded owner or owners of property included in the development. An application for approval of a PUD may be filed by a property owner or a person having an existing interest in the property to be included in the PUD. However, the application may be filed by the holder(s) of an equitable interest in such property.

- B. Before approval is granted to the final development plan, the entire project shall be under single ownership or control and legal title must be presented with the final development plan or approval may be granted subject to this condition.

**7. Common Open Space**

- A. A minimum of ten percent (10%) of the gross land area developed in any PUD project shall be reserved for common open space and/or recreational facilities for the residents or users of the area being developed. The applicant/developer shall demonstrate, to the satisfaction of the Council, the proposed common area/open space is a percentage of the total area developed to adequately serve the needs and impacts of the development.
- B. The required amount of common open space land reserved under a PUD shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development and/or be dedicated to the public and retained as common open space for parks, recreation and related uses. Public utility and similar easements and right of ways for watercourses and other similar channels are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and is approved by the City Council.
- C. The responsibility for the maintenance and security of all open spaces shall be specified by the developer before approval of the final development plan. The City may require sufficient guarantees to insure such maintenance and security.
- D. Common open space shall meet the following standards:
  - 1. The location, shape, size, and character of the common open space shall be provided in a manner to meet the needs of the PUD.
  - 2. The uses intended for the common open space must be appropriate to the scale and character of the PUD, considering its size, density, expected population, topography, and the number and type of structures and uses to be provided.
  - 3. Common open space should be suitably improved for its intended use, although common open space containing natural features, existing trees, and ground cover worthy of preservation may be proposed to be left unimproved. The buildings, structures, and improvements which are permitted in the common open space shall be appropriate to the uses which are approved for the common open space and shall conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition. The City may use conditions of approval or require guarantees that insure required improvements are constructed.

4. The development schedule must coordinate the improvement of the common open space and the construction of all buildings and facilities within the PUD.
5. The use and improvement of the common open space shall be planned in relation to any existing public or semi-public open space which adjoins or is within one thousand (1000) feet of the perimeter of the PUD.
6. The form of ownership and maintenance of the open space must be approved by the City prior to recording of the final PUD. The individual or organization shall not dispose of the common open space without written approval by the City Council.

## **8. Perimeter Requirements**

If topographical or other barriers do not provide adequate protection for existing or planned uses adjacent to the PUD, the City may impose either, or both, of the following requirements:

- A. Structures located within the perimeter of the PUD must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses.
- B. Such structures located adjacent to the perimeter of the PUD must be permanently screened or buffered in a manner approved by the Council. Screening/buffering includes, but is not limited to: berming; fencing; landscaping or combination thereof.
- C. Modification of perimeter requirements can be made when accommodating Section 7. D.5.

## **9. Underground Utilities**

Underground utilities, including telephone and electrical systems, are required within the limits of all PUD's. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Council finds that such exemption will not violate the intent or character of the proposed PUD.

## **10. Increased Residential Density**

- A. To provide for an incentive for quality PUD's, the Council may authorize an increased density in excess of that permitted in the applicable residential zoning district. The increased density shall be negotiable. Character, identity, architectural and siting variation incorporated in a development shall be considered cause for density increases, provided these factors make a substantial contribution to the objectives of the PUD including :

1. Landscaping, streetscape, open spaces and plazas, use of existing landscaping, pedestrian way treatment and recreational areas
2. Siting, visual focal points, use of existing physical features such as topography, view, sun and wind orientation, circulation pattern, physical environment, variation in building setbacks and building grouping (such as clustering)
3. Design features, street sections, architectural style, harmonious use of materials, parking areas broken by landscaping features and varied use of housing types
4. Public and/or community services, such as water and sewer, are appropriate for the proposed densities
5. Unbuildable lands cannot be used in density calculations
6. Increased density will not permit overcrowding.

## 11. Commercial Uses

- A. When PUD's include commercial uses, commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to limit the number of encroachments and intersections. Planting screens or fences may be provided on the perimeter of the commercial areas abutting residential development or zone districts.
- B. The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for traffic circulation, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas.
- C. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner.
- D. Access roads shall not have a substantial adverse affect on properties adjoining the access roads.

## 12. Application Procedure

- A. **Approval Procedure.** The granting of a special use permit for a PUD shall require a preapplication, the submission of a preliminary development plan and approval by the City Council of a final development plan as specified within this title.

B. **Preapplication Meeting.** The developer shall meet with the Public Works Administrator prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this chapter and the criteria and standards contained herein, and to familiarize the developer with the Comprehensive Plan, zoning ordinance, subdivision ordinance and such other plans and ordinances as are deemed appropriate.

C. **Preliminary Plan - Filing.**

1. An application for a preliminary PUD shall be filed with the Public Works Administrator by a property owner or person having existing interest in the property for which the PUD is proposed. At a minimum, the application shall contain the following information filed in triplicate:

- a. Name, address, and phone number of applicant
- b. Name, address, and phone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of the preliminary development plan
- c. Legal description of property including a plat map prepared by a surveyor licensed in the State of Idaho
- d. Description of existing use
- e. Zoning districts
- f. A vicinity map at a scale approved by the Administrator showing property lines, streets, existing and proposed zoning and such other items as the Administrator or City Council may require to show the relationship of the PUD to the Comprehensive Plan and to existing schools and other community facilities and services
- g. A preliminary development plan at a scale approved by the Administrator showing topography at two-foot (2') contour intervals except in areas of steep or high slopes where five foot (5') contours are required; location and type of residential, commercial and industrial land uses, layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas and such other characteristics as the Administrator or City Council deem necessary

The plan will show the proposed general layout; the location of various types of land uses; the approximate location, use,

height, and bulk of buildings; the proposed density of population in each distinct residential area; the location and size of recreational spaces, parks, schools, and other facilities which are intended for public use; the provisions for automobile parking; and the size and floor space of commercial or industrial uses.

- h. Proposed schedule for the development of the site
  - i. Evidence that the applicant has sufficient control over the land in question to file the final plan of the proposed development plan within two (2) years
  - j. A Preliminary Plat, in accordance with other provisions of the City of Dover Zoning Ordinance, when the PUD includes a platted subdivision
  - k. A land capability report, prepared by a person or firm qualified by training and experience to have expert knowledge of the subject, identifying the capability of the land to withstand disturbance without risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage
  - l. A public utility plan for sanitary sewer, water, and storm drainage
  - m. A plan showing the design and construction standards and location of proposed streets, grades, and public ways, together with a traffic study of existing roads to build out
  - n. Additional copies of the above shall be required if requested by the Administrator.
2. The applicant shall also submit a written statement providing the following information:
- a. An explanation of the character of the PUD and the reasons why the PUD is consistent with all applicable City Ordinances and why, in the applicant's opinion, the PUD is in the public interest
  - b. Two (2) copies of restrictive covenants, grants or easements, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including easements or grants for public utilities

- c. Proof of the present ownership of all of the land included within the PUD and the applicant's interest in the land proposed for development
  - d. The form of organization proposed to own and maintain the common open space
  - e. Letters of comment from the appropriate road, fire, school, health, sewer and water districts and other appropriate agencies shall be provided. The letters shall indicate that the agency has reviewed the proposal, and stipulate any conditions or requirements necessary for approval.
  - f. A development schedule indicating the approximate date when construction of the project can be expected to begin
  - g. The approximate dates in which phases of the project will be built
  - h. The approximate date when the development will be completed.
3. The application shall include a deposit, in an amount set by the Administrator, to be applied towards processing fees and postage.

D. **Preliminary Plan - Notice.** Following the filing of a complete application as determined by the Administrator, and prior to granting a special use permit for a PUD, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper of the City. Notice by mail shall be given by mailing of the public notice fifteen (15) days prior to the hearing to property owners within three hundred feet (300') beyond the external boundaries of the land to be considered, excluding streets and alleys, and any additional area that may be substantially impacted by the proposed special use as determined by the commission, using the last known name and address of such owners on the latest adopted tax roll of the county. The applicant shall bear the responsibility and costs of public notice by mail and by publication. The City shall have the responsibility of preparing the public notice for the applicant, and the applicant shall supply self-addressed stamped envelopes of all property owners according to the tax roll of the county for official mailing by the City. Additional notice requirements as provided for by Idaho Code Section 67-6512, shall be met as required.

E. **Preliminary Plan - City Council Review for Approval.**

1. Within thirty (30) days after the public hearing the City Council shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this chapter; whether the proposed development advances the general welfare of the community and neighborhood and whether the benefits, combination of various land uses and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. The City Council's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels or engineering feasibility.
2. The City Council shall consider the general standards applicable to special use permits and criteria for special uses before approving in principle a preliminary development plan.
3. The City Council shall not make a determination on a preliminary plan unless permitting costs and fees, that are the responsibility of the applicant/developer, have been paid.

F. **Final Plan - Filing.** An application for approval of the final development plan must be filed within two (2) years of approval of a preliminary development plan. The final plan shall be filed with the Public Works Administrator by at least one property owner or person having a presently existing interest in the property for which the PUD is proposed. Applications shall be signed by the owner, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two (2) years from the date of issuance of the approval unless specifically allowed otherwise by the City Council. At a minimum, the application for a final plan shall contain the following information:

1. A survey of the proposed development site, showing the dimensions and bearings of the property lines, areas in acres, topography, existing features of the development site; including major wooded areas, wetlands, structures, streets, easements, utility lines and land uses
2. All the information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity and land use considered suitable for adjacent properties

3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses; the number of housing units proposed by type; estimated residential population by type of housing; estimated nonresidential population; anticipated timing of each unit and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other ordinances governing development
4. Engineering feasibility studies and plans showing, as necessary: water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements and nature and extent of earth work required for site preparation and development
5. Site plan showing; building(s), various functional use areas, circulation and their relationship
6. Preliminary building plans and proposed exterior elevations
7. Landscaping plans
8. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained
9. A final plat if a subdivision is included in the PUD.

**G. Final Plan - City Council Recommendation.**

1. Within sixty (60) days after receipt of the final development plan, the Public Works Administrator shall recommend that the final development plan be approved as presented, approved with supplementary conditions or disapproved. The Administrator may, upon showing cause, request and receive time extensions from the City Council. The Administrator shall then transmit all papers constituting the record and the recommendations to the City Council.
2. The City Council shall find that the facts submitted with the application and presented to them establish that:
  - a. The proposed development can be initiated within two (2) years of the date of approval or as otherwise stipulated by the City Council.

- b. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations.
- c. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD.
- d. Any proposed commercial development can be justified at the locations proposed.
- e. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan and is in accordance with the PUD and the adopted policy of the City Council.
- f. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
- g. The PUD is in general conformance with the Comprehensive Plan.
- h. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.
- i. Permitting costs, that are the responsibility of the applicant/developer, have been paid by the applicant/developer.

**H. Final Plan - Council Action.**

- 1. Within sixty (60) days after receipt of the final recommendation of the Public Works Administrator, the City Council shall either approve, approve with supplementary conditions or disapprove the application as presented. Upon granting or denying the application the City Council shall specify:
  - a. The ordinance and standards used in evaluating the application
  - b. The reasons for approval or denial

- c. The actions, if any, that the applicant could take to obtain a permit.
2. Prior to an approval of a final plan, the City may require the applicant/developer enter into a Development Agreement with the City setting forth: the scope of the project; conditions of development; and describing all improvements and amenities which the applicant/developer has agreed to construct.
  3. If the application is either approved or approved with conditions, the City Council shall direct the Administrator to issue zoning permits only in accordance with the approved final development plan and the supplementary conditions attached thereto.
- I. **Extensions.** Extensions for final plan filing and/or initiation of construction of a project may be administratively granted by the City Council, at a regular business meeting, upon the applicant/developer showing cause for an extension.

### 13. **Planned Unit Development Review Criteria**

A PUD may be approved only if the proposal conforms to the following criteria to the satisfaction of the City Council:

- A. The proposal produces a functional, enduring and desirable environment.
- B. The proposal is consistent with the City Comprehensive Plan and the City of Dover Zoning Ordinance.
- C. The design and site planning is compatible with existing uses on adjacent properties. Design elements to be considered include but are not limited to density, architectural style, placement of buildings upon land, building heights and bulk, off-street parking, open space, privacy, and landscaping.
- D. The proposal is compatible with natural features of the site and adjoining properties. Natural features to be considered include; topography, native vegetation not restricted by law, wildlife habitats, watercourse, floodplains, floodways and view corridors.
- E. The location, design, and size of the proposal are such that the development will be adequately served by existing public facilities or services. Addition to, or expansion of, existing facilities or the creation of new facilities may be required as a condition of PUD approval. Additions and expansions shall be the responsibility of the developer.
- F. The proposal provides adequate private common open space area, as determined by the City Council, of no less than ten percent (10%) of gross land area, free of buildings, streets, driveways or parking area. The

common open space shall be accessible to all users of the development and usable for open space and recreational purposes.

- G. Off-street parking provides parking sufficient for users of the development and shall be integrated into the development to minimize exposure and impact.
- H. The proposal indicates the form of management, acceptable to the City, for the perpetual maintenance and security of all common property.
- I. The location, design and size of the proposal are such that the traffic generated by the development can be accommodated safely on major streets and without requiring unnecessary utilization of other local streets without appropriate improvements and mitigation measures.
- J. That access to the PUD, traffic congestion in the streets which adjoin the PUD, and the burden on public facilities which serve or are proposed to serve the PUD have been adequately addressed by the development.
- K. All elements of the design of the land, including vehicular ingress and egress, internal circulation of vehicles, pedestrian walkways, building, structures and related improvements, landscaping, signs, and exterior illumination are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, and physical disruption of surrounding property will not result.
- L. The City Council may require dedication of land and/or the construction of non-vehicular travelways that will facilitate non-vehicular travel within the development and complement a City wide non-vehicular transportation system.

#### **14. Professional Services Required as Condition of Approval**

The City Council shall have the authority to require the applicant to utilize appropriate competent professionals for a specific input regarding special areas of concern, such as traffic, hydrology and engineering studies, as a condition for approval of a PUD or a limited design PUD.

#### **15. Public Services and Facilities**

The City Council may, as a condition of approval of PUD's, and when the need is caused by the PUD, require mitigation of impacts to the extent required by the PUD to public services and facilities including but not limited to; schools, parks, playgrounds and associated services. Areas for such services may be set aside and negotiated for public use or be permanently reserved for the owners, residents, employees, or patrons of the development.

## **16. Modification of Development Standards**

In order to achieve the purposes of these provisions, the following standards may be modified with conditions imposed:

- A. Any provision pertaining to site performance standards including, but not limited to height, bulk, setback or maximum dimensions of any facility
- B. Any provision establishing buffering, landscaping or other similar requirements pertaining to site design
- C. Any provision pertaining to the minimum or maximum dimensions of any lot(s)
- D. Any provision pertaining to the type of facilities and uses allowed
- E. Any provision pertaining to sign regulations
- F. Any provision pertaining to off-street parking and loading except that required parking spaces shall be located within two hundred feet (200') of the building containing the living units.

## **17. Security for Improvements**

The City Council may, as a condition of approval of a Final PUD, require the applicant to enter into a contract with the City to install the required public improvements. The applicant shall furnish an irrevocable letter of credit, performance bond or other sufficient security acceptable to the City for the installation and associated costs. However, if an applicant/developer completes all public improvements prior to lease, sale or use of properties, bonding will not be required. The Public Works Administrator may extend the completion date for additional six (6) month periods upon written request from the applicant showing cause and need for the extension.

In the event the developer fails to complete such work within the period of time as required by the conditions of the guarantee for the completion of public improvements, the guarantee shall be forfeited to the City. The City shall arrange to have such work completed up to the amount of the guarantee. In no case shall the City be required to expend any funds other than those provided by the guarantee. In order to accomplish this, the City shall reimburse itself for any cost and expense thereof by appropriating the guarantee.

## **18. Parties Bound**

Once the preliminary development plan is approved, all persons and parties, their successors, heirs, or assigns, who own, have, or will have by virtue of purchase, inheritance or assignment, any interest in the real property within the proposed PUD, shall be bound by the conditions attending the approval of the development and the provisions of this Ordinance.

**19. Administration and Enforcement**

Building permits and other permits required for the construction or development of property under the provisions of this Section shall be issued only when in the opinion of the Public Works Administrator, the work to be performed meets the requirements of the final plan and program elements of the PUD. Any determination made by the Public Works Administrator, in regard to administering this Section, can be appealed to the City Council.

**20. Minor and Major Adjustments**

- A. Minor adjustments may be made and approved by the Public Works Administrator when a building permit is issued. Minor adjustments are those which may affect the precise dimensions or siting of buildings, but which do not affect the basic character or arrangement of buildings approved in the final plan, nor the density of the development or the open space requirements. Such dimensional adjustments shall not vary more than ten percent (10%) from the original.
- B. Major adjustments are those which, in the opinion of the Public Works Administrator, substantially change the basic design, density, open space or other requirements of the PUD. When, in the opinion of the Public Works Administrator, a change constitutes a major adjustment, no building or other permit shall be issued without prior review and approval by the City Council of such adjustment.

**21. Fees**

It is the intent of the City for the applicant/developer to assume all permitting costs associated with processing a PUD. Permitting costs shall include processing fees, postage and reasonable professional fees such as engineering and legal service fees. The City may set such fees by resolution.

**22. Effective Date**

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED by the City Council with a roll call vote, and APPROVED by the Mayor this 22 day of April, 1997.

By Randy Curless  
Randy Curless, Mayor

Attest:

(seal) Karen Ames  
City Clerk