

ORDINANCE NO. 04-17

AN ORDINANCE AMENDING THE ZONING ORDINANCE, NO. 92-9, AS AMENDED, CREATING THE REQUIREMENTS TO CREATE A PLAN UNIT DEVELOPMENT DISTRICT, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARAGOULD, ARKANSAS, AS FOLLOWS:

That Ordinance No. 92-9, as amended is hereby amended as follows:

I. That the following definitions shall be added, where appropriate to Section 3.0 Definitions:

**Common Useable Open Space.** That portion of land or an area of water or a combination of land and water within the site designated and intended for use and enjoyment of residents and owners of the planned unit development and easily accessible to all the residents. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and owners of the unit development but shall not include parking lots, streets and other areas designed primarily for other than common recreational or open space use.

**Dwelling, attached.** Adjoining dwelling units, each of which is separated from the others by one or more unpierced common walls extending from grounds to roof.

Which supercedes and replaces 3.31 *Dwelling, attached.*

**Dwelling or dwelling unit.** Any room or group of rooms located within a structure forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation by one family.

Which supercedes and replaces 3.38 *Dwelling Unit*.

**Front yard.** The portion of a lot upon which no building may be erected between the front of a building and the planned right-of-way line as indicated on the master street plan.

**Gross acreage.** The total acreage of development, including areas designated for internal streets and other public facilities.

**Unit dwelling.** A living space for one family or household. A dwelling unit may be part of a building containing two or more dwelling units, or it may be a detached building for a single family.

1. There is hereby created Section 4.8, et seq.

(A) **Planned unit development.** A planned unit development (PUD) is a comprehensively planned residential, commercial or office, land development project in which the standard requirements of the zoning ordinance and subdivision regulations may be varied to permit design flexibility, building clustering, grouping of open space, increased density, and alternatives to public facility improvements.

(1) **Approval requirements.** To be approved, a planned unit development (PUD) must comply with the provisions of this section and must achieve the following purposes.

- a. More efficient use of land;
- b. More efficient use of public facilities;
- c. More usable open space through structure grouping and other design techniques; and

d. Preservation of appropriate natural and/or physical features.

(2) **Denial of a PUD.** The planning commission in its review of the conditional use request and concept plan may deny the use of the PUD provision for the following reasons.

- a. The PUD plan did not achieve the stated purposes;
- b. The proposed PUD was incomplete;
- c. The PUD plan was incompatible with the surrounding area;
- d. Sufficient public facilities and services were not available to the proposed site; and
- e. The proposed development would create or compound a traffic hazard.

(B) **Administration.**

(1) **Authorization and permitted uses.** PUD's are authorized in all the zoning districts except RE and R1.

**Principal uses.** The principal land uses in a planned unit development shall be those permitted in the underlying zoning district(s) involved or those uses permitted in more restrictive zoning districts i.e., in a commercial district, a planned unit development could be dominated by shopping facilities or dwelling units, but in a multifamily residential district, the predominant land use shall be dwelling units.

**Accessory uses.** Accessory uses which are customarily incidental to the principal uses of the PUD are permitted. Accessory signs shall comply with the provision of the underlying zoning district(s) except as hereinafter provided for accessory commercial

uses. Within a PUD in a residential district, accessory commercial uses may be included in accordance with the following provisions:

a. In developments proposing commercial uses as a part of a PUD within a residential district, the following factors shall be considered:

1. The relationship of the proposed commercial use to:
  - a. The land parcel (both as to boundary, shape, and topographic and other
  - b. physical features), and
  - c. Surrounding land and land uses which are impacted by the proposed development, and
  - d. The overall arrangement of the proposed development.

2. The nature of the commercial use as it applies to providing service, convenience and benefit to the residents of the PUD.

b. In developments proposing more than one business, the aggregate floor area of the commercial uses shall not exceed 50 square *feet* per dwelling unit.

c. Each commercial establishment shall be limited to a maximum of 3,500 square feet of floor space.

d. Commercial signs shall be limited to one nameplate of not more than 16 square feet for each establishment. Nameplates shall be attached flat against a building wall and shall not be animated, flashing, or have other than indirect illumination. Window signs shall not be permitted.

e. The commercial area shall be designed primarily for the service,

convenience, and benefit of the residents of the PUD, however, a commercial establishment may be permitted which is designed to serve patrons both inside and outside the development if it is determined that a land use problem is not likely upon consideration of the items listed in 7.622A above.

f. Commercial uses at locations where the underlying zoning is other than commercial shall be considered only when the PUD exceeds 100 dwelling units.

(2) **Approval.** Within thirty (30) days of receipt of a PUD conceptual plan by the planning authority, such office shall review the proposal and schedule a public hearing before the planning commission, with appropriate notice to the developer. With public hearing review and planning authority recommendations the planning commission will approve, disapprove, or approve with conditions the conceptual plan. The reasons for disapproval or the conditions of approval shall be put in writing and provided to the developer. If approved, or approved with conditions, the developer will be free to proceed with a preliminary PUD Plan. Preliminary PUD plan and final PUD plan approval will follow the procedures laid out in the large-scale development and subdivision ordinances of the city.

(3) **Changes within a PUD.** Minor changes caused by conditions unforeseen at the times of approval may be authorized by the director of transportation and planning without planning commission approval. . These changes include, but are not limited to: structure location, structure character, location of sidewalks, trails, street lighting, parking, and changes in landscaping.

All other changes which in the opinion of the director of planning and transportation or planning commission are major changes must be approved by the planning commission.

(C) **PUD size**. The minimum land area for a PUD is five acres.

(D) **Density**. The dwelling unit density shall be the density allowed in the zoning district which governs the principal use. If more than one zoning district permitting residential uses is involved, then the maximum number of dwelling units shall be the combined total of all districts, each district being calculated separately according to its land area times the density of the zoning district covering that land area.

In addition to the dwelling unit density otherwise permitted, the following density bonus is provided for additional open space (as defined in subsection m) in the residential districts or setback area in all districts;

#### **OPEN SPACE**

TABLE INSET:

<b>% Open Space (Gross Land Area)</b>	<b>Permitted Dwelling Units Per Acre</b>
35	7.5
40	8.00
45	8.50
50	9.00

#### **SETBACK AREA**

In all districts where residential uses are permitted one additional dwelling unit

may be permitted for each additional two thousand two hundred (2,200) square feet of additional setback area measured from an existing R1 district or single-family development. Only one of the above density bonus methods may be granted by the planning commission for any PUD.

(E) **Perimeters.** When a PUD has a common perimeter with property in a commercial or industrial development, the following graduated setbacks shall apply to the external perimeter common to the PUD and such districts or development.

**TYPE OF PERIMETER PUD DEVELOPMENT**

TABLE INSET:

Single Family	25 feet
Duplex	50 feet
Triplex	75 feet
Quadplex	100 feet
Other Multi Family	150 feet
Nonresidential	150 feet

External setbacks when a PUD abuts any other zoning district or development (including another PUD) shall be the same as that provided by the zoning ordinance for those abutting zones. In addition, any single structure containing two (2) or more units exceeding one story, shall be set back an additional one (1) foot for each one foot of height over ten feet when adjacent to property in a residential district. (See also height requirements, subsection m, this section).

Internal spacing between structures shall be a minimum of ten (10) feet, measured to the nearest point of the structure,

(F) **PUD Expansion.**

(1) **Variance.** The planning commission may vary the requirements of this ordinance, of the city's zoning regulations, or of the city's subdivision regulations:

- a. Due to practical difficulties caused by terrain or other physical features, or
- b. If the proposal offered by the developer protects the public health, safety, and welfare better than development according to the zoning regulations, or the subdivision regulations. Any variance granted by the planning commission shall become valid unless overruled by the city council within 21 days after the action of the planning commission. Any variance shall be stated in written form, either on the plat or as a signed document to be recorded with the plat.

(G) **Lot splits within a PUD.** Following planning commission approval of a final PUD plan the planning administrator may approve an unlimited number of lot splits within a PUD provided the character or Intent of the approved development is not being changed.

(H) **Enforcement.** No building permit shall be issued for development



which proposes a change from the approved preliminary development plan without the approval of the planning administrator or planning commission. No certification of occupancy shall be issued until the final development plan has been approved and filed of record in the county courthouse. If structural construction has not started within six months after issuance of a building permit, the developer will be notified that the PUD approval will be revoked unless the developer shows good cause for the delay and the planning commission approves the extension. If the PUD approval is revoked and rezoning action was involved in the initial approvals the planning commission may initiate action to return the original zoning to the property. All decisions by the building inspector or planning administrator related to PUD's may be appealed to the planning commission and all planning commission decisions may be appealed to the city council. The procedure for appeal shall be the same as for an appeal for a rezoning decision.

(I) **Public Hearing.** For all PUD's, a public hearing shall automatically be called coincidental with the concept plan review by the planning commission. Said public hearing shall be held following the same requirements, fees, and procedures for a rezone hearing.

(J) **Notification.** The developer must notify, by registered mail, return receipt requested, anyone who leases or owns property within 300 feet of the perimeter of the PUD that a PUD proposal is pending. Said notification shall be mailed 15 days prior to the meeting at which the planning commission is to review the concept plan. The developer shall provide a copy of the notice of public hearing and the green receipt cards to the planning commission.

(K) **Review Procedure.**

(1) **Concept plan.** Whenever a developer intends to develop a PUB under the provisions of this section the developer shall submit a concept plan and request for conditional use prior to initiating the detailed work involved in the preparation of a preliminary plat. The purpose of the concept plan is to allow the developer, the planning commission and the general public to discuss the proposed development before a great deal of time and money are committed to any project.

The Concept plan shall include the following:

- a. Total area to be included in the PUD.
- b. Topography (U.S.G.S. two foot intervals is sufficient):
- c. Public facilities to be provided;
- d. Areas with potential flood problems, wetlands, or any other features presenting development difficulty;
- e. Unique physical features, including tree cover described in subsection m, natural features;
- f. Nature of surrounding development;
- g. Nature and extent of tree cover;
- h. Nature of proposed development
- i. Tentative street layout;
- j. Any other information deemed necessary by the planning commission.
- k. Filing fee of \$125.00.

1. The developer shall submit 25 copies of the concept plan to the planning authority.

(2) **Preliminary PUD plan.** A preliminary PUD Plan shall be submitted to the planning commission following the same procedures and requirements outlined in the subdivision regulations. In addition to the requirements of the subdivision regulations, the following information shall be submitted.

- a. An estimate of the number of units for sale and lease;
- b. Identification and size (acres or square feet) of all open space;
- c. Identification and location of all nonresidential structures proposed in the PUD;
- d. All information relating to the establishment, operation, and perpetuation of the property owners association;
- e. Proposed protective covenants;
- f. Natural features; and
- g. Written request for any desired variances from the zoning or subdivision regulations.
- h. Location, and size of all proposed parking areas and all pertinent information relating to access and maintenance. Maintenance of parking areas in a nonresidential PUD shall be the responsibility of the landowner, or a property owners' association and shall not be the responsibility of

the city. The method of maintenance shall be established by the PUD covenants.

- i. Grading and drainage plans.
- j. The developer shall submit 25 copies of the preliminary plan to the planning authority.
- k. Filing fee of \$200.00.

(3) **Final PUD plan**. A final PUD plan shall be submitted following the procedures and requirements in the subdivision regulations. In addition to the requirements of the subdivision regulations, the following information shall be submitted.

- a. Location of recreational facilities;
- b. Proposed treatment and ownership of open spaces;
- c. Relationship of dwelling units, recreation facilities and open spaces;
- d. Grading plan and drainage plan;
- e. Proposed trails, walks, waterbodies and other special facilities; and,
- f. A landscape or planting plan for both public and private open spaces;
- g. Final protective covenants and property owners association agreement. Any property owners association agreement shall apply to all property owners within the PUD and the protective covenants shall so provide;

- h. Location, and size of all proposed parking areas and all pertinent information relating to access and maintenance. Maintenance of parking areas in a nonresidential PUD shall be the responsibility of the landowner,' or a property owners' association and shall not be the responsibility of the city. The method for maintenance shall be established by the PUD covenants;
- i. The developer shall submit 25 copies of the final PUD plan to the planning authority; Filing fees of \$200.00.

(L) **Design standard.**

- (1) **Sidewalks.** As required by the current sidewalk ordinance.
- (2) **Street lights.** As required by subdivision ordinance.
- (3) **Water.** As required by the current subdivision.
- (4) **Sewer.** As required by the current subdivision.
- (5) **Parking.** As required by the current zoning and subdivision ordinances.
- (6) **Landscaping.** As required by all applicable landscape requirements of the city.
- (7) Streets within the PUD may be public or private.
  - a. **Public streets.** Public streets shall be constructed according to the adopted standards of the city.
  - b. **Private streets.** Private streets within a PUD shall be

permitted subject to the following conditions:

1. Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting more than one public street shall be constructed to existing city standards and shall be dedicated as a public street.
2. Subbase, base and paving shall meet city standards.
3. An adequate storm drainage system in accordance with the city drainage ordinance and master drainage plan, and approved by the director of transportation and planning shall be required for all private streets.
4. Sidewalks shall be installed on both sides of all streets.
5. Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
6. The plat of the planned development shall designate each private street as a "private street".
7. Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the city. The method for maintenance and a maintenance fund shall be established by the PUD covenants. The covenants shall expressly provide that the city is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties of the covenants. The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the city shall have the right (but shall not be required) to maintain said streets and to change the cost thereof to the property owners within the PUD on a pro rate basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PUD for such cost. The

protective covenants shall grant the city the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the city council.

8. The width of private streets shall meet city standards.
9. All of the traffic laws prescribed by the city shall apply to traffic on private streets within a PUD.
10. The minimum building setback requirement from a private street shall be 20 feet from the back of the sidewalk in residential areas.
11. The developer shall erect at the entrance to private streets a rectangular blue street name sign, indicating the street is a "private street".

(M) **Open space.**

(1) **Open space.** Each PUD shall provide at least 30 percent of the total land area within the PUD as usable private or public open space. A minimum of at least one-half of the 30 percent open space shall be contiguous (in continuous connection). Land within the floodplain up to and including (ten-year frequency) and wetland may be counted as no more than 50 percent of the usable open space. Any area intended for active open space shall be a minimum of 25 feet wide in its smallest dimension. Active open space is defined as an area intended for rigorous activity such as tennis, baseball, badminton, and other games requiring physical exertion. Passive open space may be any size. Passive open space is defined as an area intended for tranquil activities such as walking, sitting, observing and the less active games like shuffleboard and croquet. The

following shall not be considered as usable open space:

- a. The surface area of parking lots including driveways;
- b. The area occupied by structures excluding structures used for recreational purposes;
- c. Any lot intended for private ownership; and
- d. Street surface area.

All land proposed for public open space shall be approved by the city council prior to final approval of the PUD and upon transfer to the city shall thereafter become the maintenance responsibility of the city. Provisions shall be made for the maintenance and perpetuation of all proposed private open space.

(2) **Perpetuation of private open space.** The POD covenants shall expressly provide that the city is a third party beneficiary to the covenants and shall provide that no encroachment on, reduction of, or modification to the open space required shall be made without prior approval of the city council, irrespective of the vote of the other parties to the covenants.

(3) **Maintenance of private open space.** The maintenance of all private open space shall be the responsibility of the developer or of a property owners association and the method for maintenance and a maintenance fund shall be established in the POD covenants. The covenants shall expressly provide that the city is a third-party beneficiary to the covenants and that the city shall have the right to enforce the requirements for open space irrespective of the vote of the other parties to the covenants. All private open space shall be maintained in an appropriate manner. Appropriate manner means a manner which does not violate city ordinances or constitute a hazard to the safety, health or general welfare of



the POD residents or general public. The covenants shall provide that in the event private open space is not maintained as required by the covenants and this ordinance, the city shall have the right (but shall not be required) to maintain said open space and to charge all maintenance costs incurred by the city to the property owners within the POD on a pro rated basis according to assessed valuation for advalorem tax purposes and shall have a lien on the real property within the POD for such costs.

(4) **Height**. The height regulations of the various zoning districts shall apply and be in addition to the perimeter setbacks established in subsection (e) of this section.

(5) **Natural features**. Natural features such as bluffs and streams existing on a proposed POD site shall be identified on both the concept and preliminary plan. Every effort shall be made to retain these natural features in open space. A grading plan will be required by the planning commission in cases where terrain is a critical factor. At a minimum, the grading plan shall show how drainage problems and erosion will be controlled, and will be shown on the preliminary POD plan.

(6) **Signs**. Erection and maintenance of all signs on private streets shall be the responsibility of the developer or a property owners association (POA). Following final approval of the POD, the city will erect and maintain all street name signs and traffic-control signs for public and private streets.

(7) **View protection**. The planning commission shall have the right to

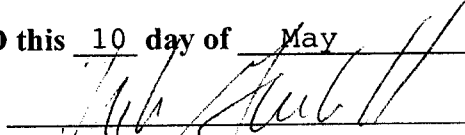
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establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views both within and without the POD through protective covenant restrictions.

(N) **Construction of nonresidential facilities.** Prior to issuance of a building permit for more than eight residential units, for any PUD, all approved nonresidential facilities shall be constructed. In the event the developer proposes to develop the PUD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the city to guarantee completion of the nonresidential facilities.

II. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED this 10 day of May, 2004.

  
\_\_\_\_\_  
Mayor Mike Gaskill

ATTEST:

  
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Judy Reddick, City Clerk