

## ARTICLE XVII PLANNED UNIT DEVELOPMENTS

### Section 17.1 PLANNED UNIT DEVELOPMENTS

17.1.1 Authorization: Section 502 of the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended, permits the establishment of planned unit developments (PUDs) which are designed to accomplish the objectives of a Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. This statutory provision further permits the establishment of PUDs which permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township and state; and encourage the innovative reuse and improvement of existing sites and buildings. This Article provides for several different types of PUDs and this Section sets forth general standards that apply to all PUDs.

17.1.2 Purpose and Intent: The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain developments, including but not limited to condominium, townhouse, and apartment developments, these requirements might result in design and land use arrangements with multiple buildings on a lot and a design that is less in the interest of public health, safety and welfare than if a controlled degree of flexibility in the regulation of land development were allowed. Similarly, when single family homes or other commercial or industrial developments are involved, the design may be improved by allowing smaller lot sizes and more open space.

Planned unit development (PUD) is a technique intended to permit and control the development of carefully planned areas for various compatible uses allowed by the Zoning Ordinance and in some cases for other uses not so provided. It is a discretionary review and approval procedure that results in an approved development if all standards of this Article are met and denial if they are not. Once approved, the classification "PUD" is applied to the property and is placed on the Zoning Map. The underlying zoning district does not change if a PUD is approved, but development of land which receives PUD approval is thereafter guided by the terms of the approved site plan for the PUD and the associated conditions on the PUD Permit, rather than by the language of the underlying zoning district. Like a special land use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the PUD approval are complied with.

The benefits of a PUD to land developers, to new users and to the general public are all so great that all development in all zones in which fifteen (15) or more lots, dwelling units or building sites are proposed shall go through PUD review and approval; except for Conservation PUDs without bonuses, which are a development option selected exclusively by choice of the land developer. To encourage development to use one of the PUD options in this Article, incentives in the form of bonus lots are provided for exceptional design, the

provision of affordable housing and more permanently protected open space for most types of PUDs.

It is intended that each type of land use in a PUD shall afford reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to land uses adjacent to a PUD. It is further intended that open space in a PUD be carefully scrutinized prior to approval to ensure it best protects and advances preservation of the character of this Township and wherever feasible, creates continuous links of open space between properties.

17.1.3 Types of PUDs: The following types of PUDs are permitted in various districts as specified in the pertinent section of this Article. Each type of PUD has different standards and is allowed in different districts.

A. Conservation PUD: These are residential developments with at least fifty (50) percent of the site retained in permanent open space and all of the allowed dwelling units concentrated on the balance of the land. This option is considered a use by right under this Ordinance except when bonus lots are involved. This development option is provided pursuant to Public Act 178 of 2001, which added Section 16h and some definitions to Section 40 of Public Act 183 of 1943. The requirements for establishing a Conservation PUD are found in Section 17.2.

B. Residential PUD: These are PUDs with a single density or a mixed density of dwelling units, and a single type or multiple types of dwelling units. A small amount of nonresidential use is permitted under limited circumstances. The requirements for establishing a Residential PUD are found in Section 17.3.

C. Mixed-Use PUD: These are PUDs that typically have mixed residential densities, mixed types of dwelling units and a mixture of residential and nonresidential uses, sometimes in the same structure. The Mixed-Use PUD is intended for relatively large scale PUDs, such as a resort/recreational use or a combined golf course/residential development [like Crystal Mountain Ski and Golf Resort]. A proposed new town that was not of the neotraditional design, would also be likely to use the Mixed-Use PUD. The requirements for establishing a mixed-use planned unit development are found in Section 17.4.

D. Neotraditional PUD or Traditional Neighborhood Development (TND): These are PUDs that have mixed residential densities, mixed types of dwelling units and a mixture of residential and nonresidential uses, that are designed using the principles of New Urbanism and specific pattern books that define architectural detail of buildings, as well as building type and placement.[Examples include the New Neighborhood in the Village of Empire, and Cherry Hill Village in Canton Township]. The requirements for establishing a Neo-Traditional PUD are found in Section 17.5.

E. Nonresidential PUD: These are PUDs that accommodate comparatively large-scale nonresidential development like a shopping center or industrial park in a campus-like setting with substantial amounts of open space. The requirements for establishing a Nonresidential PUD are found in Section 17.6.

F. Hardship PUD: This type of PUD is expected to be rarely, if ever used. This PUD exists to ensure no land is so restrictively zoned that it constitutes a taking under the 5<sup>th</sup> Amendment to the US Constitution, and the comparable provision of the State Constitution. In other

words, it exists to deal with the unusual situation where an existing zoning classification as it applies to a particular parcel, fails to permit any economically viable use as proven by the landowner, and which in most cases, the owner has attempted without success to get the property rezoned to another district which s/he believes is economically viable. The requirements to qualify for a hardship planned unit development are found in Section 17.7.

G. Transfer of Development Rights Overlay Zone: This is the only type of PUD that is a separate zoning classification. That means land must be zoned into the TDR PUD classification in order for a transfer of development rights to occur. It applies on top of certain underlying zoning districts where the land has been identified as appropriate for designation as either a sending area or a receiving area. A sending area is land from which the development rights are sold and transferred to a different location within the overlay zone where the land is designated as a receiving area for transferred development rights. The requirements for transferring development rights within the TDR Overlay zone are found in Article XII, and in Section 17.8.

17.1.4 Relationship of PUDs to Zoning Districts: Except as otherwise provided in other Sections of this Article, while one or more types of PUDs are permitted in almost all zoning districts, the underlying zoning districts that apply to a particular parcel establish the permitted uses and densities, as well as the basic limitations on height, bulk, setback, yard area and related requirements. Yet, because of the inherent flexibility necessary for application of the PUD technique, land uses, densities, height, bulk, setbacks, parking, signage, and related standards can be waived or reduced as a part of the site plan review and approval process for a PUD, provided such actions are within the parameters provided for that type of PUD as detailed in the remainder of this Article.

17.1.5 Bodies Responsible for Review and Approval of PUDs: Table 17-1 identifies what body or official is responsible for review, approval, approval with conditions, or denial of different types of PUDs, as well as references to the relevant sections of this Ordinance with the applicable procedures. See also Section 17.1.15 for the review and approval procedures.

**Table 17-1  
Procedures for Review and Approval of PUDs**

<b>Type of PUD</b>	<b>Body Responsible for Preliminary Review</b>	<b>Body Responsible for Final Approval</b>	<b>Site Plan Review Required</b>	<b>PUD Review Procedure</b>	<b>Preapplication Conference Required</b>	<b>Public Hearing Required</b>
Conser- vation, Sec.17.2	Site Plan Review Committee	Site Plan Review Committee, unless there are bonus lots, then the Planning Commission	Minor Site Plan, Section 14.23.4	Sections 17.1 and 17.2	With Zoning Administrator	Not unless there are bonus lots, then Section 17.1.15.C
Residen- tial, Sec.17.3	Site Plan Review Committee	Planning Commission	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.3	With Site Plan Review Committee, Section 17.1.14	Yes Section 17.1.15.C
Mixed- Use,	Site Plan Review	Planning Commission	Major Site Plan,	Sections 17.1 and	With Site Plan Review	Yes Section

Sec. 17.4	Committee		Section 14.23.3A	17.4	Committee, Section 17.1.14	17.1.15.C
Neotraditional, Sec. 17.5	Site Plan Review Committee	Planning Commission	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.5	With Site Plan Review Committee, Section 17.1.14	Yes Section 17.1.15.C
Nonresidential, Sec. 17.6	Site Plan Review Committee	Planning Commission	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.6	With Site Plan Review Committee, Section 17.1.14	Yes Section 17.1.15.C
Hardship, Sec. 17.7	Planning Director and Zoning Administrator	Township Board of Trustees	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.7	With Planning Director and others; See Section 17.7.4	Yes Section 17.7.5.
TDR, Sec. 17.8	Site Plan Review Committee & Development Rights Review Committee	Planning Commission and Township Board of Trustees	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.8	With Site Plan Review Committee and Development Rights Review Committee, Section 17.1.14	Yes Section _____

17.1.6 Eligibility Requirements: All planned unit developments, except for Conservation PUDs and Hardship PUDs are subject to the requirements of this Section. The applicant, through written submittal, and the Planning Commission, through written findings, shall demonstrate that the proposed planned unit development meets the following eligibility requirements:

- A. Compliance with the open space standards in Table 17-2 and the land use standards of the underlying district in which it is proposed to be located, along with such other uses as may be approved through the PUD review and approval process.
- B. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the PUD and to the Township. Such benefit must otherwise be unfeasible or unlikely to be achieved by development under a single zoning district taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:
  - 1. the long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
  - 2. reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
  - 3. the provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space.
- C. All land for which application is made must be owned or under control of one person at the time of application and approval and the parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered where other benefits to the public are sufficiently great to warrant such consideration as documented in the written findings of the Planning Commission.

- D. The PUD shall remain under the control or authority of a single individual, corporate or organizational owner who is authorized to administer the PUD. A person shall be considered to control all lands in the PUD either through ownership or by written consent of all owners of said land that they will be subject to the conditions and standards of the PUD Permit. Elimination of a single authority, such as by sale of part of the PUD shall not occur without approval of a site plan amendment.

17.1.7 Determining the Maximum Number of Permitted Lots or Dwelling Units:

The total number of lots and dwelling units permitted are those which result when all applicable federal, state, county and local laws and regulations have been applied to the parcel as described in Section 17.1.7.A. below. To accurately establish this number, the applicant shall prepare a sketch plan that is consistent with state and township requirements for a multiple parcel land division, a preliminary plat or preliminary Condominium Project. This sketch plan shall be reviewed per the procedure in Section 17.1.7.B. below.

A. **New Lots Created for Development Must be Buildable:** All lots created for residential, commercial, office, industrial or other developed use, must meet the requirements of the Land Division Act, PA 288 of 1967, as amended and all separately described areas of land to be used under the Condominium Act, PA 59 of 1978 shall meet the requirements of that act, as amended. In addition, all lots or separately described areas created shall have sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, or an approved community sewer system as provided for in this Ordinance and all lots or building sites created shall be buildable under local, county, state or federal wetland, flood plain, critical sand dune, high risk erosion or other applicable regulations. Similarly, all land to be used as right-of-way for a public road shall be suitable for that purpose and shall conform with all applicable County Road Commission or Michigan Dept. of Transportation standards, as applicable. All private roads shall conform with the standards provided in this Ordinance.

B. **Determination of Permitted Lots:** The Site Plan Review Committee or the Zoning Administrator and Planning Director together, on behalf of the Site Plan Review Committee, shall review the sketch plan and determine the number of lots under the Land Division Act and/or dwelling units or building sites under the Condominium Act and/or the number of lots permitted in the underlying zoning district, whichever is more, that could feasibly be created within the context of lots that may be limited by Section 17.1.7.A. This number shall be the maximum number of lots, dwelling units or building sites allowable in the development, prior to the determination of any bonus lots or extra dwelling units by the Planning Commission. The determination on the number of permitted lots, dwelling units, or building sites may be appealed to the Zoning Board of Appeals.

C. **Optional Bonus Lots, Extra Dwelling Units, or Extra Building Sites:** In return for exceptional design, more permanent open space or for affordable dwelling units, or some combination, bonus lots or dwelling units may be added to the total number of permitted lots, dwelling units or building sites in a PUD as calculated according to the procedures in Section 17.1.7 A and B above, once conformance with the following requirements is determined. Bonus lots, extra dwelling units or extra building sites are only permitted for residential dwelling units, and are only permitted in the following underlying zones: RP-2.5. Nonresidential PUDs and Hardship PUDs are not eligible for bonus lots, but the residential part of all other types of PUDs are eligible, if the underlying zone is RP-2.5. The Site Plan

Review Committee or the Zoning Administrator and Planner together, on behalf of the Site Plan Review Committee, shall make the initial determination of whether bonus lots, extra dwelling units or extra building sites should be permitted, and if so, the number of bonus lots after applying the formula below. The Planning Commission shall make the final determination as to whether and how many bonus lots, extra dwelling units or extra building sites are permitted which number shall be included in their conditional approval of the PUD site plan.

1. The maximum number of bonus lots, extra dwelling units or extra building sites shall equal thirty three percent (33%) of the total number of lots calculated according to the procedures in Section 17.1.7 A and B, rounded to the nearest whole number with any 5/10ths rounded up. The maximum number of bonus lots may be achieved as follows:

a. Up to one-third (1/3) of the total in Section 17.1.7.C.1 may be achieved by an exceptional layout or design that shows unusual respect for preservation of the natural environment, protects existing vegetation or open space in creative ways, and/or has an architectural design that blends well with the natural environment. These design features shall be assured in the master deed in a Condominium Project, or in deed restrictions, and/or in appropriate road maintenance agreements.

b. Up to one-third (1/3) of the total in Section 17.1.C.1 may be achieved by the provision of more permanent open space than the minimum required in Table 17-2 or by provision of an acceptable forest management plan that demonstrates a commitment and ability to professionally manage a forest for the long-term. The open space shall be assured in the master deed in a Condominium Project, or in deed restrictions.

c. Up to one-third (1/3) of the total in Section 17.1.7.C.1 may be achieved by the provision of at least five (5) percent of the total dwelling units or allowable density, or a minimum of two (2) units as affordable housing. The provision of affordable housing shall be assured through an appropriate written development agreement between the Township and the applicant.

2. The burden is on the applicant to present facts that demonstrate that the above requirements for bonus lots are met to the satisfaction of the Planning Commission.

D. Minimum Open Space: The minimum amount of permanent common open space that shall be provided for each type of PUD is listed in Table 17-2. Permanent common open space and maximum open space that is wetlands or open water in columns two and three of Table 17-2 respectively, shall be measured as a percentage of the total acreage of the land that makes up the PUD, except as otherwise provided in this Article. Additional open space requirements are found in Section 17.1.8 and in the separate sections for each type of PUD authorized in this Article.

**Table 17-2  
Minimum Permanent Common Open Space**

<b>Type of PUD</b>	<b>Minimum Open Space</b>	<b>Maximum Open Space that is Wetlands or Open Water</b>
Conservation, Sec.17.2	50%	25%
Residential, Sec. 17.3	30%*	15%
Mixed-Use, Sec. 17.4	20%*	10%

Neotraditional, Sec. 17.5	20%*	5%
Nonresidential, Sec. 17.6	20%	15%
Hardship, Sec. 17.7	20%	15%
TDR, Sec. 17.8	20%	10%

\*Means minimum open space may be reduced by up to five (5) percent for a TDR PUD in a receiving zone.

17.1.8 Open Space Requirements: All land designated and approved as common open space in a PUD shall remain as permanently protected open space. All open space, tree cover, recreational area, scenic vista, or other approved open land areas shall be either set aside as common land for the sole benefit, use, and enjoyment of present and future lot owners or residents within the PUD, or at the initiative of the applicant and acceptance by the appropriate public body, may be dedicated to the public as park land for the use of the general public. The Planning Commission shall determine which is most appropriate based on the following considerations:

A. That open space land shall be legally conveyed from the tract owner or owners to a home owners association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, provided that permanent arrangements have been made for the maintenance of said land and any buildings thereon and that an open space easement for said land may be conveyed to the public to assure that open space land shall remain open.

B. That open space land may be voluntarily dedicated to the public for park or recreational purposes by the tract owner or owners, provided that the location and extent of said land conforms to the Benzie County Comprehensive Plan, or to the Benzie County Recreation Plan, and that access to and the characteristics of said land is such that it will be readily available to and desirable for public use, development, and maintenance in which event the developer shall not be required to improve the same.

C. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is reviewed and approved by the Township Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the State of Michigan Conservation and Historic Preservation Easement Act, Public Act 197 of 1980, as amended (MCL 399.251) or dedication to and acceptance of the open space by the Township or other public entity. Such conveyance shall assure, unless the land is dedicated to the Township and accepted by it, that the Township will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the Planning Commission and the property owner or homeowners association. Such conveyance shall also:

1. Indicate the proposed allowable use(s) of the dedicated open space.
2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space in the manner specified in the PUD approval.
3. Provide standards for scheduled maintenance of the open space.
4. Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

5. Bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the planned unit development.

17.1.9 General Standards Which Apply to all PUDs: The Planning Commission shall review the particular circumstances of the PUD application under consideration in terms of the following standards and shall approve a PUD only upon finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

A. Uses: Permitted land uses are those in the underlying zoning district which applies to the land contained in a PUD application. Except that the Planning Commission can permit other land uses provided such uses are not inconsistent with the class of land uses permitted in the underlying zone(s).

B. Dimensional Standards: Dimensional standards shall be as provided in the Schedule of Regulations on Table 5-1 in Article V for the underlying zone, except as modified by the requirements for the different types of PUDs in the following Sections of this Article. The Planning Commission can waive any setback, yard, bulk or height standard up to ten (10) percent for a PUD that otherwise meets the terms of this Ordinance.

C. Signs: All signs in a PUD shall comply with the requirements of Article XIX, except that the Planning Commission may approve different signage if a comprehensive sign plan for the proposed PUD is submitted that does not result in greater total sign area, or sign height, even though more signs are used, and is otherwise consistent with the intent and purpose of the sign regulations. Applicants are especially encouraged to design monument-style entry signs aesthetic landscaping and lighting that points toward the ground and away from any residence, building or right-of-way.

D. Parking and Loading: The Planning Commission shall find that review of the Site Plan for the Planned Unit Development provides safe and convenient vehicular and pedestrian traffic within the site and that the proposed parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. All parking shall comply with the requirements of Article XX, except that where the overall integrity of the PUD would be improved with a waiver of parking design standards that do not undermine the intent and purpose of the parking regulations, then the Planning Commission may grant such waiver, however, the total number of required parking spaces cannot be reduced below that necessary to meet anticipated need; except in the case of a Neotraditional PUD where a comprehensive parking plan is submitted which shows how all parking needs will be adequately met and may include on-street parking, and the rest of the PUD site plan meets the requirements of this Ordinance.

E. Landscaping: Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment. All landscaping shall comply with the requirements of Article XXI, except that the Planning Commission may approve different landscaping, if a comprehensive landscape plan for the proposed PUD is submitted that would result in a comparable or better design that is also consistent with the intent and purpose of the landscape regulations.

F. Public Facilities: The PUD shall conform with the following public facility requirements.



1. The Planned Unit Development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion, or will be completed concurrent with the construction of the PUD.
2. The Planned Unit Development shall be designed so that its pedestrian, nonmotorized and automobile circulation systems are safely and conveniently integrated with the off-site transportation circulation system of the Township, those of abutting property and any linear trail or park systems.
3. The PUD site plan shall demonstrate a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, that are efficiently integrated into off-site potable water and wastewater public improvement plans, where public off-site facilities are available.
4. Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads are planned and programmed for the development proposed in the PUD site plan, and the development is appropriately located in relation to schools, police protection and other emergency services.
5. The improvement standards applicable to the public facilities that will serve the site comply with the regulations of the appropriate governmental agency. Provided however, the development may deviate from the County's road standards so the development achieves greater efficiency of infrastructure design and installation through clustered or compact forms of development, when the following minimum design principles are followed:
  - a. The circulation system is designed to provide safe, convenient access to all areas of the proposed development using the minimum practical roadway length. Access is provided by a private vehicular right-of-way or pedestrian way or a commonly owned easement. Internal pathways are provided to form a logical, safe and convenient system for pedestrian access to dwelling units and common areas, with appropriate linkages off-site.
  - b. Roadways are designed to permit access by emergency vehicles to all lots and/or units. An access easement is granted for emergency vehicles and utility vehicles, as applicable, to use roadways in the development for the purpose of providing emergency services and for installation, maintenance and repair of utilities.
  - c. Principal vehicular access points are designed to provide for smooth traffic flow, minimizing hazards to vehicular, pedestrian, or bicycle traffic. Where a PUD abuts a major collector, arterial road or highway, direct access to the road or highway from individual lots, units or buildings is not permitted, unless specifically approved as part of the PUD site plan.

G. Conformance with Comprehensive Plan: The PUD shall be consistent with the Benzie County Comprehensive Plan.

H. Cultural Preservation: The PUD shall be designed to preserve public vistas and existing important natural, historical, archeological and architectural features of significance within and adjacent to the development.

I. Good Neighbor Requirement: The PUD shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety

or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.

J. Building Harmony: The design of the PUD shall exhibit a reasonable harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use or facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.

K. Compatible with Character of the Area: All PUDs shall be compatible with the character of surrounding land uses and maintain and enhance the value of surrounding properties.

L. Stormwater Runoff: The PUD shall not result in any greater stormwater runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion and all vegetation shall be maintained continuously in a healthy living condition.

M. Solid Waste: The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.

N. Conformance with Requirements of Other Public Agencies: The PUD shall meet the standards of other governmental agencies, where applicable.

O. Phasing: The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, common infrastructure, drainage or erosion control. See also Section 17.1.12.

17.1.10 PUD Conditions: The Planning Commission may impose conditions with the approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the PUD approval and shall be enforced by the Zoning Administrator. However, no conditions shall be imposed upon a Conservation PUD that have the effect of prohibiting the exercise of this option. See also Article XIV.

17.1.11 Planning Commission Design Guidelines: The Planning Commission may prepare or cause to be prepared design guidelines, best practice guidelines and/or administrative guidelines to assist property owners, developers, zoning staff and themselves in the best application of the PUD provisions of this Ordinance.

17.1.12 PUD Phasing:

A. When proposed construction of any PUD is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area.

B. Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the permit holder and approval of same by the Planning Commission. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the standards in the Ordinance that apply to that development, or in the case of fraud or violation of the terms of the original approval. A decision on an extension and its length may only be made following a public hearing that documents the facts and rationale for the decision, and at which the permit holder is given the opportunity to be heard. The hearing shall be preceded by one (1) notice published not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the Township.

#### 17.1.13 Reserved for Future Use

17.1.14 Pre-Application Conference: A preapplication conference between the applicant, the site designer, the chairperson of the Planning Commission or his/her designee, the Zoning Administrator and/or the Planner and other members of the Site Plan Review Committee as deemed appropriate shall be held prior to submittal or review of any application for a PUD. A site visit may be scheduled as a part of the preapplication conference. The purpose of the preapplication conference is to review Ordinance requirements as they apply to the site, before the applicant spends any significant money on even preliminary site designs.

17.1.15 PUD Application, Review and Approval Procedures: An application for any Planned Unit Development, except a Hardship PUD, shall be submitted and acted upon in accordance with the following procedures:

A. Application: Applications for a Planned Unit Development shall be submitted twenty-one (21) calendar days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit it to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with Section 14.7.5.

B. Required Information: An application for a Planned Unit Development shall be accompanied with the following documents and information:

1. A Planned Unit Development application form supplied by the Zoning Administrator which has been completed in full by the applicant, a sketch plan as required in Section 17.1.7, and a request for the number of bonus lots, extra dwelling units, or extra building sites if any, and as applicable.
2. Following review of the initial application, sketch plan and request for bonus lots by the Site Plan Review Committee as described in Section 17.1.7 B. and C., and determination of the maximum number of permitted lots, dwelling units, building sites and a conditional determination on the number of permitted bonus lots, extra dwelling units, or extra building sites the following information shall be submitted by the applicant:
  - a. An updated application form.
  - b. A detailed site plan as specified in Article XIV, Part IV.
  - c. A statement with regard to compliance with:
    1. The eligibility requirements of Section 17.1.6,
    2. The objectives of the type of PUD proposed,
    3. The criteria required for approval in Section 17.1.9,

4. The specific standards applicable to the type of PUD requested as provided in this Article, and
5. Conformance with other criteria imposed by this Ordinance affecting the Planned Unit Development under consideration.

C. **Public Hearing:** Upon receipt of a complete application for a Planned Unit Development as provided in Section 17.1.15 B.2. above, the Zoning Administrator shall schedule a public hearing for the purpose of receiving comments relative to the Planned Unit Development application. All public notices and hearings shall conform with the requirements of Section 14.16.

D. **Review and Approval:**

1. Within forty-five (45) days following the public hearing, the Planning Commission shall review the application for a Planned Unit Development, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a decision to either deny, approve, or approve with conditions, the Planned Unit Development application in accordance with the purpose and objectives of this Article, the eligibility requirements of Section 17.1.6, the criteria for approval stated in Section 17.1.9, the open space requirements of Section 17.1.8, the access requirements of Article III, other relevant sections of Article XVII, the sign requirements of Article XIX, the parking requirements of Article XX, the landscaping, buffering and screening requirements of Article XXI, the environmental provisions of Article XXII, as well as such other standards contained in this Ordinance which relate to the Planned Unit Development under consideration.
2. The Planning Commission shall prepare a written report stating its findings and conclusions on the request for a Planned Unit Development, and any conditions relating to an affirmative decision.

E. **Planned Unit Development Permit:** Following final approval of a Planned Unit Development site plan and final approval of any engineering plans, a permit may be obtained from the Zoning Administrator provided the applicant has obtained all other applicable Township, County, State or Federal permits.

F. **Continuing Adherence to Approved Site Plan:** Any property owner who fails to develop and maintain an approved PUD according to the approved site plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.

G. **Recording of Action:** The applicant shall record an affidavit which has received the approval of the Township Attorney with the County Registrar of Deeds as provided for in this Ordinance. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, design guidelines and all other elements and conditions set forth on the PUD Site Plan, PUD Permit and any other written agreement prepared as a part of the approved PUD. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Registrar of Deeds within ninety (90) calendar days of its approval or the PUD shall be rendered invalid. Once the proper PUD documents have been recorded with the County Registrar of Deeds,

the applicant may proceed, consistent with the approved PUD Site Plan and PUD Permit, to develop the land.

H. Amendments: Amendments to an approved site plan for a PUD shall be processed according to the procedure in Article 14.

Section 17.1.16 Appeal to Circuit Court: An appeal on a decision by the Site Plan Review Committee or Planning Commission to approve, deny or approve with conditions a Planned Unit Development may be taken to Circuit Court, and may not be appealed to the Zoning Board of Appeals. [See Section 606 of the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended]

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## **Section 17.2 CONSERVATION PUD**

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17.2.1 Authorization: Conservation PUD is an option open to land owners in districts permitting residential development pursuant to Section 16h, of Public Act 178 of 2001, MCL 125.216h. A Planned Unit Development Permit may be issued for construction and occupancy of a Conservation PUD, providing the standards, procedures, and requirements set forth in this Section 17.2 are complied with.

17.2.2 Purpose and Intent: The provisions of this Section 17.2, permit the grouping of single family dwellings on a limited portion of developable land in order to preserve agricultural lands, woodlands, open space, natural features, and rural character. By permitting flexibility in design, cluster housing developments can provide common open space, recreational opportunities, privacy, and affordable living arrangements for residents. Further, cluster development reduces the consumption of land, promotes efficient public services and often preserves rural character better than traditional lot-by-lot development.

17.2.3 Objectives: Encourage conservation design that accommodates single family dwellings while:

A. Protecting and buffering sensitive lands such as wetlands, flood plains, sand dunes, steep slopes, lakes, rivers, and streams;

B. Using trees, other vegetation, hills, berms and other open space to buffer the new residential development from the contiguous public road, and any development on abutting property;

C. Permitting the continued use of land well suited to long-term agriculture or forestry, if so designated as part of the permanently protected open space on the site.

17.2.4 Qualifying Standards: Conservation PUDs are permitted in the R-1, R-2, R-3, R-4, R-5, RP-2.5, RP-5, RP-10 and RP-20 zoning districts following approval of a site plan pursuant to Article XIV, Part IV, Site Plan Review.

17.2.5 Uses that May be Permitted:

A. Single family dwellings and associated accessory uses and structures such as a garage, tool shed, green house, play set, garden and flagpole.

B. Common open space as provided in this Section and Section 17.1.7.D and 17.1.8.

- C. Nameplates and signs in compliance with the provisions of Article XIX of this Ordinance.
- D. Off street parking in compliance with the provisions of Article XX of this Ordinance.
- E. Other uses listed as permitted principal uses or permitted accessory uses, or permitted conditional uses in the district if so approved by the Site Plan Review Committee upon a finding that such a use or accessory structure was not inconsistent with the purpose, intent and objectives of this Section, and created no unreasonable negative impact on abutting properties. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection 17.2.5.

17.2.6 Lot Size Variation Procedure: The lot area for lots or dwelling units within Conservation PUDs may be reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

- A. Determine the number of permitted lots or dwelling units pursuant to the procedure in Section 17.1.7.

- B. Lot sizes within a Conservation PUD shall not be reduced in area below the following minimum standards in Table 17-3.

**Table 17-3  
Minimum Lot Size in Conservation PUDs**

<b>Residential Use and Zoning District</b>	<b>Minimum Lot Size without Sanitary Sewer--provided it is approved by the District Health Department</b>	<b>Minimum Lot Size with Sanitary Sewer</b>
One-Family Detached Dwelling Units in the R-1 residential districts	12,000 square feet (3.63 D.U. /acre)	12,000 square feet (3.63 D.U. /acre)
One-Family Detached Dwelling Units in the R-2 residential districts	14,520 square feet (3 D.U. /acre)	12,445 square feet (3.5 D.U. /acre)
One-Family Detached Dwelling Units in the R-3, R-4 and R-5 residential districts	14,520 square feet (3 D.U. /acre)	12,445 square feet (3.5 D.U. /acre)
One-Family Detached Dwelling Units in the RP-2.5, RP-5, RP-10, and RP-20 residential districts	21,780 square feet (2 D.U. / acre)	21,780 square feet (2 D.U. /acre)
Two-Family Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3 D.U. /acre)	12,445 square feet (3.5 D.U. /acre)
Townhouses, Row Houses, or Other Similar Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3 D.U. /acre)	10,890 square feet (4 D.U. /acre)

D.U. means dwelling units

C. **Permissive Minimum Yard Requirements:** Under the lot reduction procedure each lot shall have at least the following minimum yards:

1. Front Yard: Twenty-five (25) feet for all dwellings, provided that front yard requirements may be varied by the Planning Commission after consideration of common greens or other common open space if such space provided an average of twenty-five (25) feet of front yard area per dwelling unit and no dwelling unit is setback less than twenty (20) feet from the front yard line.
2. Side Yard: Eight (8) feet on each side for all single- and two-family dwellings. None for townhouses or row houses, provided that there shall be a minimum of fifteen (15) feet between ends of each building containing dwelling units.
3. Rear Yard: Twenty-five (25) feet for all dwellings, provided that rear yard requirements may be reduced by the Planning Commission after consideration of common open space lands or parks which abut the rear yard area. In no case shall the rear yard of a lot or dwelling unit be reduced below fifteen (15) feet.

D. Maximum Permissible Building Height: Two and one-half (2½) stories, but not exceeding twenty-eight (28) feet mean height.

E. Minimum Width: The minimum width of an individual lot shall conform with the Schedule of Regulations in Article XXX or shall be no less than 100 feet, except for lots on a cul-de-sac which shall not be less than sixty-five (65) feet in width at the building line, nor less than thirty (30) feet at the front lot line.

F. Minimum Perimeter Open Space: A minimum of twenty-five (25) feet of common open space shall be maintained around the perimeter of the property with a minimum of fifty (50) feet along the frontage of the property.

17.2.7 Minimum Open Space Requirements: The following standards apply to the open space land in a Conservation PUD in addition to the requirements in Section 17.1.8:

A. All common open space land in a Conservation PUD shall remain in an undeveloped state after the single family dwellings in the Conservation PUD are constructed. As provided in PA 178 of 2001, land in an undeveloped state, means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Within a Conservation PUD, land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be dedicated to the use of the public. The requirements of Section 17.1.8.B. and C. shall also be conformed with for any land to be dedicated to the public.

B. At least fifty (50) percent of the property within a Conservation PUD shall be maintained in an undeveloped state. No land in existing or proposed right-of-way, parking areas, or minimum yard setbacks shall be counted when determining undeveloped open space. Water bodies and wetlands that are to be preserved as open space shall count toward this minimum up to the maximum amount listed in Table 17-2, Section 17.1.7.D.

C. At least twenty-five (25) percent of the common open space shall be directly usable and accessible to owners of dwellings in the Conservation PUD.

D. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering of residences.

E. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.

F. Open space is encouraged around the perimeter of the project to screen and buffer the dwelling units from abutting property and from the main roadway beyond the minimum required in Section 17.2.6.F.

G. Proposed dwelling units shall be separated by at least twenty-five (25) feet from wetlands, surface waters, flood plains, or other sensitive open space.

H. Open space shall be reasonably shaped, contiguous, and located for convenient use by residents of the development.

I. Up to twenty (20) percent of the useable open space may be used for common septage or sanitary waste disposal, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction. No part of the preserved open space shall be used for an access road.

**17.2.8 Other Required Standards:** The following additional requirements apply to Conservation PUDs:

A. The site shall have direct access to a county road or a state highway via a new public road built to County Road Commission standards or via a private road built to the standards provided for in this ordinance.

B. Dwelling units shall be separated from nearby farm structures by at least one-hundred (100) feet, unless a lesser amount is approved by the farm structure owner, and shall conform with all state Department of Agriculture requirements for siting dwelling units near livestock operations.

C. The Conservation PUD design shall protect roadside character, improve public safety and preserve vehicular carrying capacity by not fronting lots or dwellings along an existing county road unless, because of natural limitations on the land, there is no other option, in which case, access shall still be by means of a new common public road, an approved private road or by shared driveways serving at least two and not more than three residences each.

**17.2.9 Application, Review and Approval Procedures:** A Conservation PUD shall be applied for, reviewed and approved using the same procedure as for a minor Site Plan in Article XIV, Part IV, Section 14.23.4. This includes submittal, review and approval of a site plan and application of the same standards for review and approval, in addition to the standards of this Section 17.2. If approved, a Planned Unit Development Permit shall be issued with any conditions detailed in the same manner as for an approved Site Plan. No application for a Conservation PUD that meets the requirements of this Section 17.2 shall be denied.

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## **Section 17.3 RESIDENTIAL PLANNED UNIT DEVELOPMENT**

**17.3.1 Authorization:** Residential PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Residential PUD, providing the standards, procedures, and requirements set forth in this Section 17.3 are complied with.



17.3.2 Purpose and Intent: Projected urbanization in certain areas of Benzonia and Platte Townships in the next decade will produce a need for an economical single family living unit that is adaptable to urban densities, but that retains many of the attractive features of the suburban home. Among the housing concepts emerging to meet this need are townhouses, row houses, and similar types of housing units with common property areas; single family subdivisions in which housing units are arranged in clusters separated from each other by common open space; and housing units developed with related recreational space such as golf courses, swimming pools, private parks, community center, and other recreational facilities. It is the purpose of this Section 17.3 to encourage more imaginative mixed-character housing environments within the residential districts through the creation of planned unit developments. A planned reduction of the individual lot area requirements for each zone district is permitted, providing the overall number of permitted dwelling units remains the same.

17.3.3 Objectives: The Planning Commission shall make findings as to how well the proposed Residential PUD conforms with the following objectives:

- A. To provide a more desirable living environment by preserving the natural character of open field, stands of trees, brooks, ponds, flood plains, hills, and similar natural assets.
- B. To encourage the provision of open space and the development of recreational facilities at a generally central location and within reasonable distance of all living units.
- C. To encourage developers to use a more creative and imaginative approach in the development of a residential area.
- D. To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the bypassing of natural obstacles in the residential site.
- E. To encourage variety in the physical development pattern of the Township by providing a mixture of housing types.

17.3.4 Qualifying Standards: An application for a Residential Planned Unit Development Permit shall comply with the following standards to qualify for consideration:

- A. The site shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit.
- B. The site shall be located within an R-1, R-2, R-3, R-4, R-5, or RP-2.5 district.
- C. The site shall be within an urban services area as provided in the Benzie Comprehensive Plan, unless this standard is waived by the Planning Commission.
- D. Adequate public or private water and sewer facilities shall be provided as part of the site development. Common septage or sanitary waste disposal system is permitted, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction.

17.3.5 Uses That May Be Permitted: The following uses may be permitted within a Residential PUD:

- A. All uses permitted by right, by right with conditions, or by Special Land Use Permit in the district in which the property is located and subject to all restrictions specified for that district except as modified by a PUD Permit.
- B. Two-family dwellings in R-4 districts.
- C. Townhouses, row houses, or other similar housing types which can be defined as a single family dwelling with no side yards between adjacent dwelling units, provided that there shall be no more than five (5) dwelling units in any one building.
- D. Recreation and open space, provided that the following uses may be set aside as common land for open space or recreation use under the provisions of this Section:
  - 1. Private recreational facilities such as golf courses, swimming pools, or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development; unless approved by the Planning Commission for use by the general public.
  - 2. Historic building sites or historical sites, parks, and parkway areas, ornamental parks, extensive areas with tree cover, wetlands, lowlands along streams, sand dunes or areas of rough terrain when such areas have natural features worthy of scenic or natural area preservation.
- E. Name-plates and signs in compliance with the provisions of Article XIX of this Ordinance.
- F. Off-street parking in compliance with the provisions of Article XX of this Ordinance.
- G. Customary accessory uses as permitted in the respective district.
- H. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection 17.3.5.

17.3.6 Lot Size Variation Procedure: The lot area for lots or dwelling units within developments may be reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

- A. Determine the number of permitted lots or dwelling units pursuant to the procedure in Section 17.1.7.
- B. Lot sizes within a Residential PUD shall not be reduced in area below the following minimum standards in Table 17-4:

**Table 17-4  
Minimum Lot Size in Residential PUDs**

Residential Use and Zoning District	Minimum Lot Size without Sanitary Sewer--provided it is approved by the District Health Department	Minimum Lot Size with Sanitary Sewer
One-Family Detached Dwelling Units in the R-1 residential districts	12,000 square feet (3.63/acre)	12,000 square feet (3.63/acre)

One-Family Detached Dwelling Units in the R-2 residential districts	14,520 square feet (3/acre)	12,445 square feet (3.5/acre)
One-Family Detached Dwelling Units in the R-3, R-4 and R-5 residential districts	14,520 square feet (3/acre)	12,445 square feet (3.5/acre)
One-Family Detached Dwelling Units in the RP-2.5 residential districts	21,780 square feet (2/acre)	21,780 square feet (2/acre)
Two Family Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3/acre)	12,445 square feet (3.5/acre)
Townhouses, Row Houses, or Other Similar Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3/acre)	10,890 square feet (4/acre)

C. Permissive Minimum Yard Requirements: Under the lot reduction procedure each lot shall have at least the following minimum yards:

1. Front Yard: Twenty-five (25) feet for all dwellings, provided that front yard requirements may be varied by the Planning Commission after consideration of common greens or other common open space if such space provided an average of twenty-five (25) feet of front yard area per dwelling unit and no dwelling unit is setback less than twenty (20) from the front yard line.
2. Side Yard: Eight (8) feet on each side for all single- and two-family dwellings. None for townhouses or row houses, provided that there shall be a minimum of fifteen (15) feet between ends of each building containing dwelling units.
3. Rear Yard: Twenty-five (25) feet for all dwellings, provided that rear yard requirements may be reduced by the Planning Commission after consideration of common open space lands or parks which abut the rear yard area. In no case shall the rear yard of a lot or dwelling unit be reduced below fifteen (15) feet.

D. Maximum Permissive Building Height: Two and one-half (2½) stories, but not exceeding twenty-eight (28) feet mean height.

E. Minimum Width: The minimum width of an individual lot shall conform with the Schedule of Regulations in Article V or shall be no less than 100 feet except for lots on a cul-de-sac which shall not be less than sixty-five (65) feet in width at the building line, nor less than thirty (30) feet at the front lot line.

F. Minimum Perimeter Open Space: A minimum of twenty-five (25) feet of common open space shall be maintained around the perimeter of the property with a minimum of fifty (50) feet along the frontage of the property.

17.3.7 Open Space Requirements: The following standards apply to the open space land in a Residential PUD in addition to the requirements of Section 17.1.8.

A. For each square foot of land gained through the reductions of lot sizes under the provisions of this Section, equal amounts of land shall be provided in open space. At least thirty (30) percent of the net area calculated in Section 17.1.7 shall be open space. Land in a golf course or other common outdoor recreational use may be counted as open space.

- B. No land in existing or proposed right-of-way, parking areas, or minimum yard setbacks shall be counted when determining undeveloped open space. Water bodies and wetlands that are to be preserved as open space shall count toward this minimum up to the maximum amount listed in Table 17-2.
- C. Ten (10) percent of the available common open space, not including any land in a golf course, shall be directly usable and accessible to owners or residents of dwellings in the Residential PUD, as determined by the Planning Commission.
- D. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering of residences.
- E. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
- F. Open space is encouraged around the perimeter of a site to screen and buffer the dwelling units from abutting property and from the main roadway beyond the minimum required in Section 17.2.6.F.
- G. Proposed dwelling units shall be separated by at least twenty-five (25) feet from wetlands, surface waters, flood plains, or other sensitive open space.
- H. Open space shall be reasonably shaped, contiguous, and located for convenient use by residents of the development.
- I. Up to twenty (20) percent of the useable open space may be used for common septage or sanitary waste disposal, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction. No part of the preserved open space shall be used for an access road.

#### 17.3.8 Other Required Standards:

- A. At least six different architectural designs for dwelling units shall be used in the PUD and they shall be mixed so that no two dwellings of the same style are side by side. Garages shall not project forward from the face of the dwelling unit and wherever feasible, garage doors shall not be on the same side as the front door of the dwelling.
- B. PUDs with more than fifteen (15) dwelling units shall have direct access to a paved county road or a state highway via a new public road built to County Road Commission standards or via a paved private road built to the standards provided for in this ordinance.
- C. Site design shall avoid removing natural vegetation that could be used to screen structures, especially along a public street or highway.
- D. Structures proposed on or along ridge lines shall conform with the standards of Section 24.6.D even if not in the Crystal Lake Watershed.
- E. The Residential PUD design shall protect roadside character, improve public safety and preserve vehicular carrying capacity by not fronting lots or dwellings along an existing county road unless, because of natural limitations on the land, there is no other option, in which case, access shall still be by means of a new common public road, an approved private road or by shared driveways serving at least two and not more than three residences each.

## **Section 17.4 MIXED USE PLANNED UNIT DEVELOPMENTS**

17.4.1 Authorization: Mixed Use PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Mixed Use PUD, providing the standards, procedures, and requirements set forth in this Section 17.4 are complied with.

17.4.2 Purpose and Intent: It is the intent of this Section to carry out the same creative approach to land development as set forth in Article 17, Section 17.3 with the addition of some commercial uses as part of the PUD.

17.4.3 Objectives: The Planning Commission shall make findings as to how well the proposed Mixed Use PUD conforms with the following objectives:

- A. All the objectives listed in Section 17.3.3.
- B. The nonresidential component of the Mixed Use PUD shall clearly complement and not in any way detract from the residential portion of the PUD or from other development in the area.

17.4.4 Qualifying Standards: An application for a Mixed Use Planned Unit Development Permit shall comply with the following standards to qualify for consideration:

- A. All the standards listed in Section 17.3.4 shall be met.
- B. Commercial or office uses shall not be constructed or established until fifty (50) percent of all proposed dwelling units are constructed and thirty-five (35) percent are occupied.
- C. Nonresidential uses (not including a golf course or other recreational facility serving the residents of the PUD) shall not exceed four (4) percent of the total area of the proposed planned unit development site.
- D. The Planning Commission shall make written findings, that permitted nonresidential uses will not unreasonably increase traffic in the area, will not reduce the value of adjacent homes, structures and uses, will not create unnecessary noise, dust, odors, lights, sound or other nuisances to adjacent properties, and shall materially improve the quality of the area.
- E. The nonresidential use portion of the PUD shall be located with direct access to a paved private road, county road or state highway and shall conform with all access management regulations of this Ordinance.
- F. The nonresidential component of the PUD shall have its principal access separate from the residential portion of the PUD, but residents of the PUD shall be able to safely and conveniently access the nonresidential portion by motorized vehicle, bicycle or sidewalk.

17.4.5 Uses that May be Permitted:

- A. All uses permitted in a Residential PUD pursuant to Section 17.3.5.

B. Any use permitted by the Planning Commission that is listed as permitted by right or by right with conditions in the C-1, C/R, or N/C districts; except no wholesale sales or storage facilities are permitted. Any use permitted by Special Land Use Permit in these districts may also be permitted, but only via approval as a special land use pursuant to the procedures in Article XVI.

17.4.6 Lot Size Variation Procedure:

A. Lot sizes for residential dwellings may be varied per the standards in Section 17.3.6.

B. Lot sizes for nonresidential standards shall conform with the requirements for that use in the nonresidential district in which the use is permitted as determined by the Planning Commission.

17.4.7 Open Space Requirements:

A Mixed Use PUD shall conform with the open space requirements in Section 17.3.7.

17.4.8 Other Required Standards:

All the standards listed in Section 17.3.8 shall be met.

## **Section 17.5 NEOTRADITIONAL PLANNED UNIT DEVELOPMENTS**

17.5.1 Authorization: Neotraditional PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Neotraditional PUD, providing the standards, procedures, and requirements set forth in this Section 17.5 are complied with.

17.5.2 Purpose and Intent: It is the intent of this Section to authorize the creation of new neighborhoods in or adjacent to existing villages and cities in Benzonia or Platte Township or to create new towns using the neotraditional model. Neotraditional neighborhoods are characterized by narrow lots, higher density, parking and garages in the rear, pedestrian orientation, narrower streets, on-street parking, a traditional downtown close to residential neighborhoods, multi-use buildings, a town square and a town hall near the village center, and public parks close to neighborhoods. To these ends, this Neotraditional PUD provides extraordinary flexibility to design new neighborhoods in or adjacent to existing villages and cities in the Township or new towns.

17.5.3 Objectives: The Planning Commission shall make findings as to how well the proposed Neotraditional PUD conforms with the following objectives:

A. Is consistent with the principles of New Urbanism as published in the Charter of New Urbanism by the Congress of New Urbanism and are hereby incorporated into this Ordinance by reference. See [www.cnu.org](http://www.cnu.org).

B. Is consistent with the goals and objectives of the Benzie County Comprehensive Plan and the Benzie County Open Space and Natural Resources Protection Plan.

17.5.4 Qualifying Standards: An application for a Planned Unit Development Permit shall comply with the following standards to qualify for consideration as a Neotraditional PUD.

A. The underlying zoning district for the residential portion of the Neotraditional PUD shall be the VR, Village Residential District.

B. The underlying zoning district for the commercial portion of the Neotraditional PUD shall be the Village Commercial District.

C. The underlying zoning district for any use not included in the Village Residential or Village Commercial District, shall be as established by the Planning Commission.

D. A pattern book conforming with the principles of the Congress of New Urbanism shall be developed and approved by the Planning Commission to ensure development in the Neotraditional PUD meets the high architectural, aesthetic, and engineering standards expected of a neotraditional neighborhood or new town.

E. Adequate public or private water and sewer facilities shall be provided as part of the site development. Common septage or sanitary waste disposal system is permitted, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction.

17.5.5 Uses that May be Permitted: The following uses may be permitted within a Neotraditional PUD:

A. Any principal or accessory uses allowed by right, by right with special conditions or any special land use permitted in the underlying zoning district.

B. Name-plates and signs in compliance with the provisions of Article XIX of this Ordinance or the approved Pattern Book, whichever is more restrictive.

C. Off-street parking in compliance with Article XX or the approved Pattern Book.

D. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection 17.5.5.

17.5.6 Lot Size and Setback Variation Procedure: Lots sizes and setbacks within a Neotraditional PUD can vary by ten (10) percent from the standards of the underlying district, provided no more than twenty (20) percent of the total lots in the development are of the smaller size.

17.5.7 Open Space Requirements: The following standards apply to the open space land in a Neotraditional PUD in addition to the requirements of Section 17.1.8.

A. A minimum of twenty (20) percent of the total land area in the Neotraditional PUD shall be permanently protected open space that is either dedicated to and accepted by a governmental agency, or owned by a nonprofit entity responsible for managing all the land open to the public in the PUD.

B. No land in existing or proposed right-of-way, parking areas, or minimum yard setbacks shall be counted as meeting the open space requirement. Water bodies and wetlands that are to be preserved as open space shall count toward this minimum up to the maximum amount listed in Table 17-2, Section 17.1.7.D.

C. All of the available common open space shall be directly usable and accessible to owners or residents of dwellings in the Neotraditional PUD.

- D. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for residences.
- E. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
- F. Proposed dwelling units shall be separated by at least twenty-five (25) feet from wetlands, surface waters, flood plains, or other sensitive open space.
- G. Open space shall be located for convenient use by residents of the development.
- H. Up to forty (40) percent of the useable open space may be used for common septage or sanitary waste disposal, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction. No part of the preserved open space shall be used for an access road.

17.5.8 Other Standards:

The Planning Commission shall have complete discretion as to whether or not the proposed Neotraditional PUD is consistent with the principles of New Urbanism, the standards of this Ordinance, and is consistent with the Comprehensive Plan of Benzie County.

17.5.9 Reserved for Future Use

**Section 17.6 NONRESIDENTIAL PLANNED UNIT DEVELOPMENTS**

17.6.1 Authorization: Nonresidential PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Nonresidential PUD, providing the standards, procedures, and requirements set forth in this Section are complied with.

17.6.2 Purpose and Intent: It is the purpose of this Section to provide opportunities for planned office, commercial and industrial development particularly suited to the needs of the residents of the Township and State in locations where public services are adequate to accommodate the jobs and activities created by such uses.

17.6.3 Objectives: The following objectives shall be met by an application for a Nonresidential PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development of such Nonresidential PUD:

A. Property is located within an area designated for urban growth in the Benzie County Growth Management Plan.

B. The use is consistent with the character of the area and has a quality of construction commensurate with other new developments within the Township.

17.6.4 Qualifying Standards: Each property proposed for a Nonresidential PUD shall conform with the following qualifying standards:

A. Parcel shall be a minimum of twenty (20) acres in size.

B. Parcel shall be served by public sewer and water.



C. The site shall have direct access to a county road or a state highway via a new public road built to County Road Commission standards or via a private road built to the standards provided for in this Ordinance.

17.6.5 Uses that May be Permitted: The following uses are permitted in a Nonresidential PUD:

A. Office, governmental, institutional, commercial, or industrial uses, or a mix thereof.

B. The uses permitted by right, by right with conditions, or by Special Land Use Permit in the underlying zoning district shall establish the permitted uses.

C. Not more than twenty (20) percent of the gross floor area of a Nonresidential PUD in a C-1 or O-1 district may be used for dwelling units. All dwelling units shall be above the ground floor businesses or office uses.

D. Nameplates and signs in compliance with the provisions of Article XIX of this Ordinance.

E. Off street parking in compliance with the provisions of Article XX of this Ordinance.

F. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection.

17.6.6 Lot size and Setback Variation Procedure:

A. Lots sizes and setbacks within a Nonresidential PUD can vary by ten (10) percent from the standards of the underlying district, provided no more than twenty (20) percent of the total lots in the development are of the smaller size.

B. The minimum setback requirements of the underlying zoning district shall be maintained around the perimeter of the PUD.

17.6.7 Open Space Requirements: At least twenty (20) percent of the total acreage of the site shall be retained as permanent open space. Not more than fifteen (15) percent of the permanent open space shall be wetlands or open water. Required open space shall conform with the requirements of Section 17.1.8.

17.6.8 Other Standards: No Nonresidential PUD shall be approved unless the applicant, through written submittal, and the Planning Commission, through certification of written findings, demonstrate that the land use and development meet the following standards:

A. Conforms with all access management regulations of this Ordinance.

B. The Planning Commission shall make written findings, that permitted nonresidential uses will not unreasonably increase traffic in the area, will not reduce the value of adjacent homes, structures and uses, will not create unnecessary noise, dust, odors, lights, sound or other nuisances to adjacent properties, and shall materially improve the quality of the area.

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**Section 17.7 HARSHIP PLANNED UNIT DEVELOPMENT**

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17.7.1 Authorization: Hardship PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Hardship PUD, providing the standards, procedures, and requirements set forth in this Section are complied with.

17.7.2 Purpose and Intent:

A. It is the intent of this Section to provide a site specific administrative remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates to the Township Board of Trustees that (1) the applicant's property cannot be used for the purposes permitted in the zoning district, (2) the plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

B. If and when a property owner meets such four-part threshold burden of proof, it is not intended that any use may then be approved. Rather, this Section is intended to authorize administrative relief to the minimum extent necessary to allow reasonable use of property on the particular site, taking into consideration the objective of achieving compatibility and high quality development.

C. In order to satisfy the finality requirement dictated by the Michigan Supreme Court in *Paragon Properties Company v City of Novi*, a property owner shall not be required to seek variance relief at the Board of Appeals if relief is sought and denied under this Section. An application under this Section also represents a waiver of the right to request a use variance from the Board of Appeals, under the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

17.7.3 Application Requirements:

A. In addition to the information required for other variance requests, an application for a Hardship Planned Unit Development shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

1. Applicant's property cannot be used for the purposes permitted in the zoning district.
2. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
3. Applicant's suggested use would not alter the essential character of the area.
4. Applicant's problem has not been self-created.

B. At the end of each statement (1. through 4.) identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

17.7.4 Pre-Hearing Conference:

A. Prior to the scheduling of a hearing, the applicant shall contact the Planner for the purpose of scheduling a pre-hearing conference.

- B. The purposes of the pre-hearing conference shall be to:
1. Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
  2. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
  3. Explore a means of providing relief to the applicant by way of non-use variance from the Board of Appeals.
  4. Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.

C. The Planner shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.

D. The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

#### 17.7.5 Hearing Procedure:

A. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in Section 17.7.3.A, paragraphs 1. through 4., above.

#### B. Manner of Presentation:

1. Community representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.
2. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits, however, the chairperson of the Township Board may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Township Board may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the Township Board to ask questions of such witnesses.
3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full

- picture, including all relevant information, is before the Township Board for consideration as it relates to the specific application presented.
5. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.
  6. At the hearing, the Township Board may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the Township Board. When questions of procedure arise during the hearing, the chairperson of the Township Board may solicit the recommendation of the representatives of both the applicant and the community.
  7. If a hearing is not completed at a given meeting within the time period allowed by the Township Board, it shall adjourn the hearing for a maximum of thirty (30) days to a place, time and date certain for continuation.

#### 17.7.6 Decision of the Township Board:

- A. The Township Board may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- B. At the conclusion of the hearing, the Township Board may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- C. If the Township Board determines to grant a Hardship Planned Unit Development, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law.
- D. If the Township Board adopts a motion to grant a Hardship Planned Unit Development, such motion may be made as a tentative grant of relief, subject to review by the Planning Commission, Planner, consultant, Zoning Administrator, or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Township Board, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

### **Section 17.8 TRANSFER OF DEVELOPMENT RIGHTS PUD OVERLAY ZONE**

17.8.1 Authorization: Transfer of Development Rights PUD Overlay Zones are created pursuant to the authority of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. This overlay zone includes both sending areas and receiving areas. A Planned Unit Development Permit may be issued for construction and occupancy of a PUD, providing the standards, procedures, and requirements set forth in this Section 17.8 are complied with.

Intended sending zones are RP-5, RP-10, and RP-20.

Intended receiving zones (in which bonus lots are permitted) are R-2, R-3 and VR (new zone, Village Residential)