

**PLANNED UNIT DEVELOPMENT ORDINANCE**

**Town of Durham, NH**

**Proposed New Ordinance**

March 12, 2025 – For discussion by the Planning Board

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**ARTICLE XVIII.2 PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

➤ ***Include this PUD Overlay District in Part B in the Table of Contents.***

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**175-107. Planned Unit Development Overlay District (PUDOD)**

**A. Authority.**

This article is adopted pursuant to New Hampshire RSA 674:21 Innovative Land Use Controls subsection I. (e) Planned unit development.

**B. Definition and Purpose.**

A Planned Unit Development (PUD) allows a landowner to propose their own development project with a fair degree of independence from zoning, site plan, and subdivision requirements otherwise applicable to that property. A PUD development plan functions as a special zoning district designation for a particular tract of land in terms of uses, dimensions, and other development standards.

The purpose of this article is to promote flexibility in large-scale development by considering project proposals based upon a comprehensive, integrated and detailed individual plan rather than the constraints applicable to piecemeal lot-by-lot development under conventional zoning. A PUD should enhance the quality of new development by encouraging attractive and beneficial features and promoting exceptional site and architectural design.

A PUD affords a property owner the opportunity to negotiate with the Town of Durham, pursuant to the parameters in this article, to create a superior project that provides greater benefits to both the property owner and the Durham community than the ordinary ordinances and regulations would allow for. It is understood that the PUD approach is an alternative method selected by the applicant. Approval by the Town of Durham involves considerable discretion and the Town of Durham need not approve a proposal which the Planning Board or Town Council deems to not be in the interest of the community.

**C. Basic Requirements.**

The following requirements apply to any proposed PUD.

1. Location. PUDs are permitted in the MUDOR and ORLI zoning districts (or as these districts may be reconstituted in the future).
2. Parcel size. The minimum area required for a PUD is 25 contiguous acres of land.

Where portions of the tract are separated by a road, road right-of-way, utility, waterway, or another comparable element, or where portions are in close proximity such that a close relationship between those portions can be readily established, the land shall be deemed contiguous. Multiple separate lots may compose the PUD.

3. Ownership. The PUD shall be under unified ownership or control at the time of application. However, the tract may be subsequently subdivided consistent with the terms and conditions of the approved development plan. Multiple parties may own, manage, and/or develop various components of the PUD provided that the overall PUD remains integrated and the development plan explains how this ongoing integration will be ensured.
4. Utilities. Public water and sewer must be provided to the PUD.

#### **D. Standards and Objectives of Development.**

The following standards and objectives shall apply to all PUD's.

1. Setting Standards. In devising the PUD (i.e., “The PUD Development Plan”), subject to specific limitations, guidelines, and objectives stated elsewhere in this article, there is flexibility in the applicant’s proposed selection of land uses, density, setbacks, buffers, building heights, lot sizes, lot dimensions, parking requirements, and most site design and development standards contained in the Zoning Ordinance, Site Plan Regulations, Subdivision Regulations. The development plan must be clear about the alternative standards that are proposed. The PUD may not depart from state and federal law and the building code.
2. Traditional Neighborhood Development. The site shall be designed following the principles of traditional neighborhood development (TND) and traditional downtown development. It shall include a network of walkable streets with interconnected sidewalks and pedestrian ways. The site shall not use a conventional suburban automobile-oriented pattern. Buildings shall front on streets and squares in a manner that will create a walkable streetscape. Specialized areas that are not conducive to TND design, such as industrial areas, need not be laid out in this manner.
3. Form-Based Code. The preferred structure for the plan is the form-based code model. Applicants are encouraged to research form-based coding and to incorporate the approaches commonly used. A form-based code typically includes a regulating plan, building standards, public standards (where there will be streets and pedestrian ways), architectural standards, landscaping standards, sign standards (as appropriate), and environmental resource standards.
4. Street Design. A modified grid of walkable streets, including short blocks where feasible, is preferred. Street widths may be reduced from the provisions of the Zoning Ordinance and Subdivision Regulations where a reduction in street size is compatible with the harmonious development of the PUD and accommodates

emergency vehicles and other functional needs.

5. Mix of Uses. The PUD shall include a mix of uses.
6. Design Elements. All elements of the PUD, including, but not limited to, the architecture, signage, lighting, landscaping, and street furniture, shall promote a harmonious pedestrian-oriented environment. The PUD shall include detailed provisions for these elements, especially architecture.
7. Parking. All off-street parking areas shall be located at the rear of buildings, at the side of buildings, or at peripheral locations within the PUD. Interim parking areas may be established along streets provided the plan calls for construction of a building in the near future. Parking for bicycles shall be provided.
8. Transportation. Accommodation for multiple modes of transportation beyond single-occupancy vehicles shall be incorporated, including pedestrian ways, bicycle ways, microtransit, public transportation, and transportation management demand methods. The Planning Board may require a traffic study at its option.
9. Utilities. All utilities shall be located underground. The Planning Board may waive this requirement as part of site plan review if it determines that limited above ground installation, whether on an interim or permanent basis, will not impair the quality of the project.
10. Level of Development. The applicant shall provide a detailed analysis of the proposed density of residential uses and intensity of nonresidential uses to demonstrate that the site can handle the level and type of development. The analysis may examine proposed floor-area ratio, traffic impacts, stormwater impacts, and other development constraints, as appropriate.
11. Building Heights. Proposed building heights will be reviewed carefully in order to minimize impact upon the surrounding rural and town character. Lower buildings shall be placed near to existing exterior roads and taller buildings shall be placed further from those roads so that they are relatively unobtrusive.
12. Open Space. At least 20% of the total acreage of the parcel must be designated as open space, parks, and green areas. Designation of a larger percentage of the total acreage is encouraged. Plans for ownership and maintenance of these spaces must be determined at the time of development plan approval or site plan/subdivision approval.
13. Buffers. Landscaping, setbacks, and other appropriate methods shall be incorporated to provide a reasonable buffer between the PUD and adjoining property except where compatible uses adjoin one another.
14. Natural and Cultural Resources. Permanent protection of significant natural and cultural resources is strongly encouraged.

15. Sustainability. Sustainable design and construction practices and energy conservation methods shall be incorporated.
16. Public Access. Accommodations for reasonable public access to the streets, pathways, open spaces, facilities, and establishments within the development shall be established.
17. Affordable Housing. Affordable housing must be a component of the project.
18. Private covenants. Any proposed covenants, restrictions, and easements must be approved by the Planning Board. A provision may be built into the documents providing for effective enforcement and implementation of the covenants, restrictions, easements, and ground leases.

#### **E. Allowed Uses.**

The following uses may be proposed for inclusion in a PUD. Any use must be specifically approved with any appropriate conditions as part of the PUD.

1. Residential Uses. Any residential use except for detached single-family residences.
2. Nonresidential Uses.
  - a. Offices;
  - b. Research and development;
  - c. High technology;
  - d. Light industry;
  - e. Neighborhood scale commercial uses such as convenience stores, craft stores, restaurants, beauty shops, personal services, tailors, laundromats, banks, and business services;
  - f. Civic uses such as schools, government offices, and churches;
  - g. Inns and hotels;
  - h. Conference centers;
  - i. Arts facilities;
  - j. Community centers;
  - k. Medical facilities;
  - l. Day care facilities for adults and children;
  - m. Parking facilities, including electric vehicle stations;
  - n. Indoor and outdoor recreation facilities;
  - o. Sales office for the sale or rental of property in the PUD; and
  - p. Utilities serving the project.
3. Accessory Uses. Any uses that are customarily accessory to uses approved in the PUD Development plan.
4. Prohibited uses and designs. The following are not permitted as new uses in a PUD:

- a. Automobile/vehicle dealerships;
- b. Gasoline stations;
- c. Other automobile-oriented uses;
- d. Storage facilities for residential use;
- e. Billboard-type signs; and
- f. Any use likely to generate excessive noise, odors, vibrations, or other impacts that could reasonably be expected to be bothersome to other occupants of the site.

## **F. Process.**

Establishing a PUD involves the following process.

1. Discussion with Planning Department. The applicant should meet first with the Planning Department, and any other Town personnel which the Planning Department thinks should participate in the discussion, to discuss the general proposal and review the requirements of this article.
2. Preliminary review with Planning Board. The applicant then submits a letter of intent to the Planning Board to establish a PUD and maps and supporting documentation that explain the proposed project in a preliminary manner. The application is presented to the Technical Review Group (TRG) for preliminary comments. The Planning Board holds a public hearing on the proposal and then engages in a preliminary discussion with the applicant about the project immediately following the public hearing or at one subsequent meeting.
3. Preliminary review with the Town Council. The applicant then presents the preliminary application, as may be modified in discussion with the Planning Board above, to the Town Council. The Town Council may hold a public hearing on the preliminary application at its option. In order for the project to move forward, the Town Council must endorse (by simple majority vote) the preliminary application. The preliminary application may be revised at this stage based upon discussions between the applicant and the Town Council and/or the Town Council may provide any binding comments, at its option. The Town Council should be guided by the criteria in this article for evaluating an application.
4. Close out preliminary review with the Planning Board. The applicant returns to the Planning Board for a final preliminary discussion. The board and applicant may continue the preliminary discussion to one or more subsequent meetings if both parties wish to do so. The preliminary review is then closed.

Comments by the Town Council in its endorsement that are intended to be binding, are binding upon the application. However, all comments made by the Planning Board at the preliminary stage are considered preliminary, nonbinding, and subject to change when the formal application is submitted.

5. Committee. The Planning Board may form a committee at any time to assist in

the board's review of the preliminary or formal application and to make nonbinding recommendations to the board. The committee may consist of any people deemed appropriate by the board, including board members, Town Council members, members of other Town boards and commissions, staff of the Town of Durham, and other members of the Durham and UNH community. All meetings of the committee shall be treated as public meetings.

6. Formal application. The applicant submits a formal PUD application as specified in this article. The application is presented to the Technical Review Group at the appropriate time. The Planning Board holds a public hearing on the application when it deems appropriate, but prior to approval. Neighbors within 300 feet are notified about the hearing by verified mail. The board shall use its best good-faith efforts to engage in productive discussions with the applicant to help move the project forward provided sufficient information is submitted by the applicant to allow for productive discussions.
7. Development of Regional Impact. The Planning Board shall determine whether the proposed Planned Unit Development should be deemed a Development of Regional Impact in accordance with RSA 36:54. The board may treat the overall PUD as a development of regional impact but find that the individual site plan and subdivision applications are not developments of regional impact. The board may request input about the proposed PUD from any parties, such as utilities, neighboring municipalities, and state agencies.
8. Approval. If the Planning Board determines that the proposal, as submitted or as modified, meets the requirements and objectives of this article, it may vote to approve the Planned Unit Development. The Planning Board shall include proposed conditions of approval as part of its recommendation. The Planning Board may deny an application if it finds that the proposal fails to meet the requirements and objectives of this article in its sole judgment.
9. Zoning Map. If and when the Planning Board approves the PUD, the parcel is designated on the Zoning Map as, for example, "PUD - Jones Development (name of the project)." The underlying zoning district remains in place but the standards of the PUD exclusively control development of the parcel. The new PUD designation includes all of the approved documents including text material and maps provided by the applicant and conditions of approval specified by the Town Council and the Planning Board.
10. Development. Site plan and subdivision applications for the parcel are then submitted and reviewed in accordance with the provisions of the adopted PUD Development Plan.
11. Changes to the PUD. Changes may be made to an approved PUD Development plan as follows:
  - a. The Planning Board may approve minor modifications to the development plan following a public hearing.

- b. The Planning Board may approve significant changes to the PUD (including deviations from conditions specified by the Town Council) following endorsement by the Town Council and a public hearing.
12. Significant changes. Significant changes to the approved PUD include, but are not limited to, an increase in building heights, an increase in density, a reduction in open space, a significant change in proposed uses or configuration of the uses, and reducing or expanding the area of the PUD.
13. Commencement of work. In the event that active and substantial physical development or building has not begun on the site by the owner or the owner's successor in interest in accordance with the approved PUD within 36 months after the date of approval, or in accordance with other specific terms of the approval, or as may be extended by the Planning Board for good cause, then the PUD shall be deemed null and void and the zoning for the parcel shall revert to the underlying zoning district.
14. Termination. A landowner may terminate an adopted PUD for which significant development has not occurred by notifying the Planning Board in writing that they do not intend to utilize the PUD. In that event, the PUD will be terminated and the underlying zoning designation will apply. If significant development has occurred on the parcel then the Planning Board shall determine whether or not to terminate the PUD following a public hearing. When a PUD is terminated, any developed areas of the former PUD that do not conform with the underlying zoning designation shall be deemed nonconforming development under this ordinance.

#### **G. Criteria for Review of PUD Proposals.**

The Town Council and Planning Board, in their respective reviews, shall determine in their sole reasonable discretion if the proposal meets these criteria and is worthy of the special consideration afforded a Planned Unit Development.

1. The proposed PUD development plan conforms with the intent, standards, and objectives of this article.
2. The proposed PUD incorporates a general standard of excellence and it is expected to provide a significant positive benefit to Durham.

#### **H. Submission Requirements.**

The formal PUD submission shall include the items below. The Planning Board may waive the requirements for specific elements as it deems appropriate. The Planning Board shall use its judgment in determining the level of detail needed, recognizing that site plan and subdivision applications to be submitted later will include more details.

1. Completed PUD application form.
2. Narrative, including a statement of the purpose of the PUD, how the PUD meets

the objectives and standards of this ordinance, and the ways in which the proposal would benefit the community.

3. A clear statement of all of the proposed standards for the PUD to be used in place of the standards otherwise applicable in the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations.
4. A surveyed plan of the parcel showing metes, bounds, and existing conditions.
5. Information about the existing parcel including:
  - a. acreage;
  - b. ownership;
  - c. underlying zoning; and
  - d. land uses;
6. Information about the proposed development plan including:
  - a. number and type of dwelling units;
  - b. square footage of nonresidential uses;
  - c. building heights;
  - d. parking information;
  - e. the general approach to stormwater management;
  - f. utilities information;
  - g. a plan for mitigating potential impact on neighboring properties;
  - h. expected ownership and management of infrastructure and project components;
  - i. type of private covenants and private management/association envisioned;
  - j. expected taxability of the project;
  - k. general financing arrangement as appropriate;
  - l. timeframe for development; and
  - m. the general strategy for development.
7. Proposed development plan including:
  - a. a regulating plan (an overall plan showing uses and general design and standards for each section of the site);
  - b. an architectural plan, including sample renderings or templates, with standards/guidelines including a clear process for how the standards/guidelines will be implemented (such as through an architectural review committee);
  - c. other design standards/guidelines (for lighting, street furniture, etc.);
  - d. a plan for streets and paths;
  - e. a general landscaping plan;
  - f. an open space plan; and
  - g. a sign standards plan, if proposed;
8. Transportation plan including analysis of traffic impacts and proposals to encourage transportation modes other than single occupancy vehicles.

9. Natural and cultural resources analysis of the tract prepared by a qualified professional and a plan for managing and preserving resources.
10. Completed abutters list of owners within 300 feet of the site.
11. PUD application fee.
12. Any other information that the Planning Board reasonably determines is needed to properly evaluate the proposal.
13. The applicant shall submit the number of copies of the above documents and in a format as specified by the Planning Department.

**I. Interpretation/application of PUD Development Plan.**

The Planning Board reviews any subsequent site plan or subdivision application for its conformity with the approved PUD development plan. The Planning Board is granted wide latitude in interpreting the adopted PUD when considering applications provided its interpretations are reasonably consistent with the intent of the adopted PUD.

The PUD Development plan need not include exact lot locations and layouts, exact locations of roads and paths, size and configuration of parking lots, utility information, water and sewer details, drainage, landscaping, and architectural renderings. (For example, the land plan may show numerous trees to be planted. The applicant would be able to significantly modify the locations and types of planting at the site plan stage provided the intent of the landscaping element as presented in the land plan is met.)

All development standards must ultimately be determinable. Where specific development standards are neither stated nor implied in the PUD development plan, the most appropriate standards otherwise applicable (from the Zoning Ordinance, Site Plan Regulations, and/or Subdivision Regulations) shall apply as determined by the Planning Board. (For example, if a particular section of the development plan does not specify front setbacks, the front setbacks contained in the underlying zoning district or a different, more applicable zoning district, would then apply.)

**Fees.**

The application fees for a PUD are as follows:

- (1) \$50 per gross acre of the tract.
- (2) \$500.00 at the preliminary review with the balance due at the regular review

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**CHANGES TO OTHER ARTICLES**

Article XIX – Conservation Subdivisions should be renumbered to 175-108 with all of the sections lettered A, B, C, etc.