

# CHAPTER 5. PLANNED UNIT DEVELOPMENT REGULATIONS

## 5.1. PURPOSE

The purpose for Planned Unit Developments (PUDs) is established in [Section 4.5 Zoning District Purpose Statements](#).

## 5.2. TYPE OF PUD DISTRICTS

- 5.2.1. The PUD District shall be established as a zoning district that overlays a base zoning district. Therefore, a PUD can be created that overlays any of the zoning districts provided for in this zoning code. An approved PUD shall be referenced using both the base zoning district and PUD, for example R-4 PUD Urban Residence Planned Unit Development or B-2 PUD General Business Planned Unit Development.
- 5.2.2. Upon application of the property owners or their agent, the board of township trustees may establish a PUD by designating the property as such on the zoning map in accordance with the procedures set forth in [Section 3.7 Zoning Text and Map Amendments](#).
- 5.2.3. Once the property has been zoned as a PUD, subsequent use of the property shall comply with the regulations of the underlying zoning designation and other conditions of approval of the PUD or modifications to the underlying zoning district regulations as determined by the board of township trustees.

## 5.3. PUDS APPROVED PRIOR TO THE EFFECTIVE DATE OF THIS CODE

Any PUD approved prior to the effective date of this zoning code shall continue in accordance with the approved plans. Modifications, amendments, and expansion of existing PUDs shall be in accordance with this chapter.

## 5.4. COMPLIANCE WITH PLANS

All PUDs approved after the effective date of this zoning code should comply with the Hamilton Township Land Use Plan, and other adopted plans, including compliance with the permitted uses, densities, intensities, and other recommendations of the plan specific to the applicable property.

## 5.5. REVIEW PROCEDURES FOR PUDS

5.5.1. All PUDs shall be processed in three stages that include a PUD sketch plan (Stage 1), PUD preliminary site plan (Stage 2) and a PUD final site plan (Stage 3).

### 5.5.2. Combined Review

- A. In the event an applicant/developer is sufficiently far along with their plans, a combined PUD preliminary site plan and PUD final site plan approval may be requested.

- B.** A combined PUD preliminary and final site plan application shall be reviewed in accordance with the process and procedures set forth in [Section 5.5.5 Stage 2 – PUD Preliminary Site Plan](#).
- C.** Approval of a Stage I - PUD sketch plan and zone map amendment (see [Section 5.5.4 Stage I – PUD Sketch Plan](#)) is required prior to application for combined PUD review.

### **5.5.3. PUD Initiation**

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- A.** A PUD may be initiated by the filing of an application by one or more of the owners (or their agents) of property within the area proposed to be changed or affected by the proposed amendment. An application initiated by the owner or their agent shall be subject to the complete review procedure established below.
- B.** The zoning commission or board of township trustees may initiate a rezoning of a property to establish a PUD overlay district without submitting a preliminary PUD plan. Upon rezoning a property to establish a PUD overlay district, development may occur in one of the two following methods:
  - (1)** The property owner may submit an application for a use that is permitted in any method (permitted, permitted with use-specific standards, or as a conditional use) in [Table 4-2: Permitted Use Table](#) without being subject to the PUD standards of this chapter; or
  - (2)** The property owner may submit an application of a preliminary PUD plan pursuant to this chapter. The review shall follow the same procedure established herein for Stage 2 or Stage 3.

### **5.5.4. Stage I – PUD Sketch Plan and Zone Map Amendment**

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The PUD sketch plan is intended to establish the major governing principles of a development related to land uses, density, open space and circulation. Specific details related to issues such as the number of parking spaces, the type and location of landscaping, or the location of individual lots and buildings shall be reviewed during the PUD preliminary site plan.

#### **A. Step I – Preapplication Conference**

- (1)** Applicants for any PUD District are required to meet with the zoning inspector for a preapplication conference prior to submitting a formal application for a PUD.
- (2)** The purpose of the preapplication conference is to informally discuss application requirements, review procedures, and details of the proposed development. More than one preapplication conference between the applicant and township staff may be necessary.
- (3)** Applicants are encouraged to bring a preliminary site plan to the preapplication conference.
- (4)** No formal application is required to facilitate a preapplication conference. The applicant need only contact the zoning inspector to set up a meeting date.
- (5)** Discussions that occur during a preapplication conference with township staff are not binding on the township and do not constitute official assurances or representations by Hamilton Township or its officials regarding any aspects of the plan or application discussed.

**B. Step 2 – PUD Sketch Plan Application**

- (1) Applications for the PUD sketch plan shall be submitted to the zoning inspector at the township offices.
- (2) Where the property is not already zoned as a PUD, the PUD sketch plan shall be submitted as part of a zoning map amendment.
- (3) The application shall include all such forms, maps, and information as may be prescribed for that purpose by the zoning inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (4) Each application shall be signed by at least one of the owners, or the owner's authorized agent, of each property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications.
- (5) Applications for amendments initiated by the zoning commission or the board of township trustees shall be accompanied by the initiating board's motion or zoning resolution pertaining to such proposed amendment.
- (6) All applications shall be subject to [Section 3.4 Common Review Requirements](#).
- (7) All applications shall be submitted with the required fees as established in the Hamilton Township fee schedule.

**C. Step 3 – Referral to the Warren County Regional Planning Commission**

- (1) Within five days after filing of an application, the township shall transmit a copy thereof to the Warren County Regional Planning Commission.
- (2) The Warren County Regional Planning Commission shall recommend the approval, approval with modifications, or denial of the proposed amendment and shall submit such recommendation to the zoning commission.
- (3) Such recommendation shall be considered at the public hearing held by the zoning commission on such proposed amendment.

**D. Step 4 – Public Hearing and Recommendation by the Zoning Commission**

- (1) Upon the filing of an application for an amendment (Step 2), the zoning commission shall set a date for a public hearing regarding the proposed PUD amendment and the PUD sketch plan.
- (2) The public hearing shall not be less than 20 or more than 40 days after the date the application (Step 2) was submitted.
- (3) For an amendment that intends to rezone or redistrict 10 or fewer parcels of land, notification shall be given in accordance with ORC Section 519.12 to all owners of property within and contiguous to and directly across the street from the area of the proposed amendment. If the amendment rezones more than 10 parcels of land as listed on the county auditor's current tax list, a published notice is required in accordance with ORC Section 519.12.
- (4) Within 30 days after the zoning commission's public hearing, the zoning commission shall recommend the approval, approval with modifications, or denial of the proposed amendment and PUD sketch plan, and submit such recommendation together with the

application, text and plans pertaining thereto, and the recommendation of the Warren County Regional Planning Commission to the board of township trustees.

**E. Step 5 – Public Hearing and Decision by the Board of Township Trustees**

- (1) Upon receipt of the recommendation from the zoning commission (Step 4), the board of township trustees shall set a time for a public hearing on such proposed amendment.
- (2) The date of the public hearing shall not be more than 30 days after the date of the receipt of such recommendation from the zoning commission.
- (3) For an amendment that intends to rezone or redistrict 10 or fewer parcels of land, notification shall be given in accordance with ORC Section 519.12 to all owners of property within and contiguous to and directly across the street from the area of the proposed amendment. If the amendment rezones more than 10 parcels of land as listed on the county auditor's current tax list, a published notice is required in accordance with ORC Section 519.12.
- (4) Within 20 days after its public hearing, the board of township trustees shall either adopt or deny the recommendations of the zoning commission, or adopt some modification thereof. In the event the board of township trustees modifies or overturns the recommendation of the zoning commission, the majority vote of the board of township trustees shall be required.
- (5) Review and approval of the PUD sketch plan shall be limited to:
  - (a) Defining the uses permitted within the PUD, the general location of such uses (footprints of individual dwellings or buildings are not required), and any use-specific standards that may apply to the permitted uses;
  - (b) Establishing the maximum density or intensity of development that is permitted in the PUD;
  - (c) Establishing the minimum lot area and lot width requirements for residential uses;
  - (d) Defining any deviations from the standard of the underlying district;
  - (e) Establishing the general layout of any new streets or major access drives for the development and pedestrian circulation; and
  - (f) Defining the amount and general location of open space.
- (6) In accordance with the standards set forth herein, the board of township trustees may explicitly impose special conditions relating to the PUD as the board may determine necessary in order to best promote the public health, safety and welfare.

**F. Review Criteria for PUD Sketch Plan**

The following criteria shall be used in recommendations and decisions regarding the PUD sketch plan:

- (1) The PUD sketch plan is consistent with the intent and purposes of the zoning code to promote public health, safety, morals, community stability and the general welfare of Hamilton Township.
- (2) The PUD sketch plan is consistent with the Hamilton Township Land Use Plan and Warren County Thoroughfare Plan.

- (3) The uses proposed will not be detrimental to the present surrounding uses or to the uses authorized under the zoning code for the surrounding real estate, and will be harmoniously related to the surrounding area.
- (4) The PUD sketch plan provides adequate safeguards to protect the general public, owners, and occupants of nearby real estate from nuisances, noise, air pollution, water pollution, soil pollution, visual blight or any other environmental contamination.
- (5) The uses proposed will not be detrimental to existing and potential future surrounding uses and will be harmoniously related to the surrounding area.
- (6) The internal streets and primary and secondary roads that are proposed shall properly interconnect with the surrounding existing primary and secondary road network as designated on the Warren County Official Thoroughfare Plan. A traffic impact study may be required by the township, and the zoning commission and trustees shall coordinate cross access easements or stubbed streets to all adjacent parcels as needed to facilitate better traffic flow between individual developments in conjunction with the Warren County Engineer's Office.
- (7) The minimum common open space areas have been designated in accordance with the provisions of this chapter. The PUD sketch plan shall provide for the preservation of as many trees as practicable.
- (8) The PUD sketch plan may vary from the requirements of the zoning code upon approval by the board of township trustees of the sketch plan.

#### **5.5.5. Stage 2 – PUD Preliminary Site Plan**

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The PUD preliminary site plan is intended to be in accordance with the approved PUD sketch plan and to provide greater detail of the design of the development. Specific details related to issues such as the number of parking spaces, the type and location of landscaping, the location of buildings, or residential lots shall be reviewed during the PUD preliminary site plan.

##### **A. Step 6 – Preapplication Conference**

- (1) Applicants for any PUD District are encouraged to meet with the zoning inspector for a preapplication conference prior to submitting a formal application for a PUD preliminary site plan.
- (2) The purpose of the preapplication conference is to informally discuss application requirements, review procedures, and details of the proposed development, and to review any specific conditions applied to the PUD sketch plan by the board of township trustees so that such conditions are addressed in the PUD preliminary site plan application.
- (3) Discussions that occur during a preapplication conference with township staff are not binding on the township and do not constitute official assurances or representations by Hamilton Township or its officials regarding any aspects of the plan or application discussed.

##### **B. Step 7 – PUD Preliminary Site Plan Application**

- (1) Applications for the PUD preliminary site plan shall be submitted to the zoning inspector at the township offices.

- (2) The application shall include all such forms, maps, and information as may be prescribed for that purpose by the zoning inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (3) All applications shall be subject to [Section 3.4 Common Review Requirements](#).
- (4) All applications shall be submitted with the required fees as established in the Hamilton Township fee schedule.

**C. Step 8 – Referral to the Warren County Regional Planning Commission**

- (1) After filing of an application, the township shall transmit a copy thereof to the Warren County Regional Planning Commission.
- (2) The Warren County Regional Planning Commission shall recommend the approval, approval with modifications, or denial of the proposed PUD preliminary site plan, and shall submit such recommendation to the zoning commission.
- (3) Such recommendation shall be considered at the public hearing held by the zoning commission on such proposed PUD preliminary site plan application.

**D. Step 9 – Public Meeting and Recommendation by the Zoning Commission**

- (1) Upon the filing of an application for a PUD preliminary site plan (Step 7), the zoning commission shall set a date for a public meeting regarding the proposed PUD preliminary site plan.
- (2) After the zoning commission's public meeting, the zoning commission shall recommend the approval, approval with modifications, or denial of the proposed PUD preliminary site plan and submit such recommendation together with the application, text and plans pertaining thereto, and the recommendation of the Warren County Regional Planning Commission to the board of township trustees.

**E. Step 10 – Public Meeting and Decision by the Board of Township Trustees**

- (1) Upon receipt of the recommendation from the zoning commission (Step 9), the board of township trustees shall set a time for a public meeting on such proposed amendment.
- (2) The board of township trustees shall either adopt or deny the recommendations of the zoning commission, or adopt some modification thereof. In the event the board of township trustees modifies or overturns the recommendation of the zoning commission, the majority vote of the board of township trustees shall be required.
- (3) In accordance with the standards set forth herein, the board of township trustees may explicitly impose special conditions relating to the PUD preliminary site plan as the board may determine necessary in order to best promote the public health, safety and welfare.

**F. Review Criteria for PUD Preliminary Site Plan**

The following criteria shall be used in recommendations and decisions regarding the PUD preliminary site plan:

- (1) The preliminary PUD plan is in accordance with the PUD sketch plan as adopted by the board of township trustees.
- (2) The arrangement of vehicular access and circulation, including intersections, road widths, channelization structures and traffic controls are adequately designed for the proposed uses and existing surrounding development.

- (3) The design generally addresses stormwater management and erosion control, and avoids flood hazard areas.
- (4) The minimum common open space areas have been designated and designed in accordance with the provisions of this chapter, and shall be conveyed to a legally established home owners or property owners association, commercial management group, the township, or other agency as herein provided.
- (5) That any part of the PUD not used for structures, parking and loading areas, streets, public improvements, or walkways shall be landscaped or otherwise improved for the purpose intended or otherwise left in its natural state.
- (6) The comments and recommendations from the Warren County Engineer's Office and other departments or officials of the township and Warren County, as well as representatives of federal and state agencies including the Soil Conservation Service, the Department of Conservation, the Environmental Protection Agency and similar agencies are adequately addressed.
- (7) The PUD preliminary site plan may vary from the requirements of the zoning code upon approval by the board of township trustees of the preliminary site plan.
- (8) Approval of the PUD preliminary site plan may be conditional upon provisions that are necessary for the protection of public health, safety, and general welfare. The zoning commission or board of township trustees may require that a revised PUD preliminary site plan be submitted if, in its opinion, substantial changes are required to comply with this chapter.

### **5.5.6. Stage 3 – PUD Final Site Plan**

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The PUD final site plan is intended to establish the construction details of the PUD approved by the board of township trustees.

#### **A. Step 11 – Final PUD Plan Submittal**

A PUD final site plan may be submitted for approval after the board of township trustees grants approval of the PUD preliminary site plan and after a traffic impact study has been performed for all access points on a state and/or county roadway.

#### **B. Step 12 – Public Meeting and Decision by the Zoning Commission**

- (1) Upon the filing of an application for an amendment (Step 11), the zoning commission shall set a date for a public meeting regarding the proposed PUD final site plan.
- (2) After the zoning commission's public meeting, the zoning commission shall recommend the approval, approval with modifications, or denial of the proposed PUD final site plan and submit such recommendation together with the application, text and plans pertaining thereto, to the board of township trustees.

#### **C. Step 13 – Public Meeting and Decision by the Board of Township Trustees**

- (1) Upon receipt of the recommendation from the zoning commission (Step 12), the board of township trustees shall set a time for a public meeting on such proposed amendment.
- (2) The board of township trustees shall either adopt or deny the recommendations of the zoning commission, or adopt some modification thereof. In the event the board of

township trustees modifies or overturns the recommendation of the zoning commission, the majority vote of the board of township trustees shall be required.

- (3) Upon final approval by the board of township trustees, the township shall forward the approved PUD final site plan to the Warren County Building Department with an endorsement of the approval thereon. The Building Department shall not issue a building permit to the applicant until the approved PUD final site plan is received from the township fiscal officer and has received evidence of the owner's compliance with [Section 5.5.6.C\(4\)](#).
- (4) PUD final site plan approvals shall not be effective until the property owner causes the terms and conditions of the PUD final site plan to be placed in the chain of title of the real estate to which it applies as a restrictive covenant, running with the land, incorporated into a deed of conveyance or other legal documents. This restrictive covenant may be altered with the consent of the property owner and the board of township trustees. The developer will require the assistance of an attorney to place the terms of the PUD final site plan in record form so that it may be placed as a matter of record in the records kept by the Warren County Recorder pursuant to ORC Section 317.08.

**D. Review Criteria for PUD Final Site Plan**

The following criteria shall be used in decisions regarding all phases of PUD final site plans:

- (1) The PUD final site plan shall substantially conform to the approved PUD preliminary site plan, including any revisions or conditions of approval by the board of township trustees.
- (2) All necessary legal documentation relating to the incorporation of a home owners or property owners association for residential PUDs, or other similar associations for nonresidential PUDs, and copies of any restrictive covenants or agreements that are to be recorded, have been submitted and approved as part of the PUD final site plan. Such legal documentation shall demonstrate how the common open space will be maintained over the life of the development.

**5.5.7. Phasing Plan**

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Any plan that will require more than 24 months to complete shall be constructed in phases and a phasing plan shall be developed accordingly. In a phased PUD, it is expected that changes in the approved PUD final site plan may be required from time to time. In order to preserve the flexibilities which are fundamental to a PUD, planned changes or modifications are permitted subject to the procedures of [Section 5.5.8 Modifications](#).

**5.5.8. Modifications**

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- A. Major modifications to an approved PUD sketch plan shall be processed in accordance with the procedures in [Section 5.5.4 Stage I – PUD Sketch Plan and Zone Map Amendment](#).
- B. Modifications to an approved PUD preliminary site plan or PUD final site plan shall be considered in accordance with this section.
- C. A request for a modification shall be submitted to the zoning inspector.
- D. The board of trustees shall have the authority to determine if the proposed modification is a major modification or minor modification in accordance with this section. Such decision may be appealed to the BZA.



**E. Major Modifications**

- (1) Major modifications to an approved PUD preliminary site plan or PUD final site plan shall include but not be limited to:
  - (a) An increase in residential density;
  - (b) An expansion in nonresidential floor area that exceeds 10 percent of the total floor area that was previously approved;
  - (c) Changes to the PUD boundaries;
  - (d) Changes in the amount (percentage of the total development) or location of different land uses; or
  - (e) Changes to internal street patterns that alter the intersection points with existing streets.
- (2) Major modifications shall be reviewed in accordance with the entire procedure set forth in [Section 5.5.5 Stage 2 – PUD Preliminary Site Plan](#).

**F. Minor Modifications**

Other amendments or modifications that are in compliance with the regulations of this code shall be classified as a minor modification and shall be reviewed and approved by the zoning inspector, except that the zoning inspector may elect to submit the minor modification to the zoning commission for review and a decision. Such review shall occur at a public meeting of the zoning commission and shall be subject to notice and fees as established by the board of township trustees and state law.

**5.5.9. Enforcement**

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- A. The terms and conditions of the PUD and the covenant that runs with the land shall be enforceable by owners of real estate covered by the PUD, the home owners association for residential PUDs, or other similar associations for nonresidential PUDs, or by Hamilton Township.
- B. Failure to enforce shall not be deemed a waiver of rights of enforcement.
- C. The owners and all subsequent owners must take action subject to a covenant running with the land whereby they waive the defense of laches against any person or body that has the power to enforce the PUD.

**5.6. DEVELOPMENT STANDARDS**

**5.6.1. Permitted Uses**

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- A. Any permitted use may be included within a PUD regardless of the underlying zoning. It is essential however, that the PUD be planned, developed and operated in accordance with the approved PUD plan. The PUD plan must assure that the uses, structures and developments are properly integrated with the surrounding area and promote the health, safety, morals, general welfare and provides for a wholesome environment, free of nuisances for the entire community.

- B.** Development of the PUD property shall comply with the use regulations established during the Stage 1 and Stage 2 PUD plans and the underlying zoning district as determined by the board of township trustees.

### **5.6.2. Site Development Standards**

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- A.** Development of the PUD property shall comply with the site development standards established during the Stage 1 and Stage 2 PUD plans as determined by the board of township trustees.

- B. Permitted Density**

- (1)** The permitted density is subject to approval by the board of township trustees as part of the PUD plan approval.
  - (2)** The density for each PUD plan will be reviewed on a case-by-case basis taking into account:
    - (a)** Recommendations from the Hamilton Township Land Use Plan;
    - (b)** Adjacent land uses;
    - (c)** Unique features and characteristics of the land;
    - (d)** The proposed site layout; and
    - (e)** Quality and character of the proposed open space.
  - (3)** Any change to the density of an approved Stage 1 or Stage 2 plan shall be considered a major modification, and shall be reviewed in accordance with [Section 5.5.8 Modifications](#).

- C. Accessory Uses and Structures**

Accessory uses and structures shall conform to the provisions of [Section 4.9 Accessory Use and Structure Regulations](#) for the applicable zoning district that is part of the PUD.

- D. Minimum Dwelling Size**

The minimum dwelling size in a PUD shall be in accordance with the minimum size established in the residential district where the PUD is located, unless modified in the PUD plan.

- E. Lot Area and Yards**

- (1)** The minimum lot area and lot width requirements shall be established in the PUD plan approval based on:
    - (a)** Recommendations from the Hamilton Township Land Use Plan;
    - (b)** Adjacent land uses;
    - (c)** Unique features and characteristics of the land;
    - (d)** The proposed site layout; and
    - (e)** Quality and character of the proposed open space.
  - (2)** To the maximum extent feasible, when a PUD is proposed adjacent to the open space of an existing PUD, the proposed PUD shall establish open space adjacent thereto to create larger areas of open space within the township.
  - (3)** The minimum setbacks for individual lots shall be those of the underlying zoning district unless varied as part of the PUD approval.

**F. Height Requirements**

The maximum height of structures shall be as established in the underlying zoning district unless modified as part of the PUD approval.

**G. Open Space**

(1) All common open space shall be subject to [Section 5.6.3 Open Space Standards](#).

**H. Parking**

Off-street parking shall be in accordance with the provisions of [CHAPTER 7 Parking, Loading and Circulation](#), unless modified as part of the PUD approval.

**I. Signs**

(1) Signs in a PUD shall comply with the regulations in [CHAPTER 9 Signs](#) for the underlying zoning district, unless the board of township trustees approves modifications to the sign standards during the PUD plan approval.

(2) Signs in a PUD approved prior to the adoption of this regulation shall continue to be regulated by the PUD regulations applicable to the property.

**J. Design Standards**

**(1) Residential Standards**

(a) The overall quality of the design of the development shall be considered when reviewing a PUD application. The zoning commission and board of township trustees shall review:

(i) The use of unique street design and landscaping;

(ii) The use of a sufficient number of house types to avoid a monotonous streetscape;

(iii) The incorporation of limitations on the use of certain building materials (See [Subsection \(b\) Building Materials](#) below.);

(iv) The incorporation of pedestrian and/or bicycle paths or trails to the extent reasonably possible and reasonably desirable; and

(v) The incorporation of ponds or other water or land features to the extent reasonably possible and desirable, including sustainable, low maintenance and natural appearance.

**(b) Building Materials**

All PUD developments are encouraged to maximize the use of natural building materials such as brick, jumbo brick, stone, wood, hardi-plank siding, glass, stucco, cementeous siding or cultured stone.

**(2) Nonresidential Standards**

(a) The overall quality of the design of the development shall be considered when reviewing a PUD application. The zoning commission and board of township trustees shall review:

(i) The use of unique street design and landscaping;

- (ii) The use of a sufficient number of building types to avoid a monotonous streetscape;
- (iii) The incorporation of limitations on the use of certain building materials (See [Subsection \(b\) Architectural and Building Material Standards](#) below.);
- (iv) The incorporation of pedestrian and/or bicycle paths or trails to the extent reasonably possible and reasonably desirable; and
- (v) The incorporation of ponds or other water or land features to the extent reasonably possible and desirable.

**(b) Architectural and Building Material Standards**

- (i) All PUD developments shall maximize the use of natural building materials such as brick, jumbo brick, stone, wood, hardi-plank siding, glass, stucco, cementeous siding or cultured stone. The zoning commission and board of township trustees reserve the right to regulate building materials on each PUD plan on a case-by-case basis.
- (ii) Metal siding, vinyl siding, and exposed smooth face concrete masonry unit (CMU) block is prohibited as a primary exterior building material on all building elevations visible from a public road right-of-way.
- (iii) All visible elevations shall include decorative features such as cornices, pilasters, and contrasting horizontal bands. Building recesses and protrusions are strongly encouraged on larger buildings to break long uninterrupted building walls.

**(c) Architectural Guidelines**

The design guidelines in [Section 6.4 Architectural Design Guidelines and Standards](#) shall be incorporated as part of the buildings in the PUD.

**(d) Circulation and Access**

- (i) A PUD in a nonresidential district shall have primary access from an arterial or collector road as defined by Warren County Thoroughfare Plan when such access is feasible. Secondary access points on local streets may be permitted with approval from the zoning commission and board of township trustees during the PUD plan review.
- (ii) Pedestrian ways shall be subject to the provisions of [Section 7.7 Mobility and Sidewalks](#) unless otherwise waived by the board of township trustees. Pedestrian ways, including sidewalks and multi-use paths, are required to accommodate safe non-motorized transportation throughout the PUD along internal streets and perimeter roads. Additional pedestrian ways may be permitted internally within the development where they are not adjacent to a road.
- (iii) Cross access easements to adjacent parcels may be required by the zoning commission and board of township trustees to provide better circulation and access between adjacent developments.

**(3) Size of PUD**

- (a)** It is suggested that the size of a PUD be a minimum of five acres or more.
- (b)** In circumstances where the project area is less than five acres, the board of township trustees may determine that common open space is not necessary or if common open space is necessary, the establishment of a trust for the preservation of common open space may not be required.
- (c)** Normally, a PUD is occupied by more than one owner.

**5.6.3. Open Space Standards**

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The purpose of this section is to establish the types of land that are appropriate for open space areas, and to regulate the manner in which open space areas are preserved and maintained.

**A.** The PUD shall provide for the reservation of land within the tract to be developed as common or public open space, unless the board of township trustees decides that this requirement is not necessary for the proper execution of the PUD.

**B. Required Amount of Open Space**

- (1)** A minimum of 20 percent of the total PUD development proposed for residential uses shall be set aside for common open space.
- (2)** A minimum of 15 percent of the total PUD development proposed for nonresidential uses shall be set aside for common open space.
- (3)** The open space for a PUD with mixed uses is determined by calculating the area used for residential purposes, separate from the area used for nonresidential purposes and then applying the total acreage for each use to the required percentage of open space listed above. If mixed uses occur in the same building, open space shall be required using nonresidential standard.
- (4)** Hamilton Township strongly encourages applicants to exceed the standard percentage of open space whenever possible.
- (5)** In circumstances where a development is planned near an existing public park or when the board of township trustees determines open space is not necessary within the project, the developer may donate funding towards existing public parks in lieu of common open space.

**C. Types of Land to Be Preserved**

- (1)** The following types of land shall be required to be preserved in a natural state as part of the minimum open space requirement for each development type:
  - (a)** Floodways and the 100 year flood plain as determined by FEMA.
- (2)** The following types of land are encouraged, but not required, to be preserved in a natural state as part of the minimum open space requirement for each development type:
  - (a)** Stream corridor setback areas (both sides) as established below based on the drainage area of the stream. The drainage area is to be determined by the Warren County Soil and Water Conservation District and the setbacks measured from the centerline of the stream.

- (i) 50 feet for streams with a drainage area of up to 320 acres.
    - (ii) 75 feet for streams with a drainage area between 320 acres and 20 square miles.
    - (iii) 100 feet for streams with a drainage area between 20 square miles and 300 square miles.
    - (iv) 300 feet for streams and rivers with a drainage area over 300 square miles (e.g., Little Miami River).
  - (b) Mature woodlands and existing vegetation;
  - (c) Intermittent streams;
  - (d) Wetlands as determined by the EPA; and
  - (e) Areas with slope 20 percent or greater or other unique natural and/or geological features.
- (3) No more than 35 percent of the standard open space for residential areas may consist of the following:
- (a) Isolated or fragmented pieces of land that are less than 10,000 square feet in area or less than 15 feet in width (excluding maintained pocket parks); or
  - (b) Perimeter or interior buffers required under [CHAPTER 8 Landscaping Regulations](#); or
  - (c) Land that is unusable or presents maintenance difficulties including, but not limited to, the following:
    - (i) Steep slopes over 25 percent grade.
    - (ii) Wetlands (as determined by the EPA).
    - (iii) Retention/detention ponds primarily used for stormwater management.
    - (iv) Areas within the 100 year flood plain as determined by FEMA.
    - (v) Other areas deemed unusable by the zoning commission or board of township trustees.
- (4) The following areas shall not count toward the minimum open space requirements:
- (a) Private and public roads, and associated rights-of-way.
  - (b) Public or private parking areas, access ways, and driveways related to any residential use.
  - (c) Required minimum setbacks or spacing between buildings and parking areas.
  - (d) Required setbacks between buildings and streets.
  - (e) Private yards, including front, rear and side yards.
  - (f) Off-street parking areas.
  - (g) Above-ground buildings, pipes, apparatus, and other equipment for community or individual septic or sewage disposal systems.

**D. Minimum Percentage Devoted to Active Recreation**

- (1) A minimum of 25 percent of the required open space for each development type shall be improved for active park and recreational uses or facilities including but not limited to: community facilities, pedestrian or bicycle paths; benches or other seating areas; pedestrian scaled lighting; gazebos or other decorative structures; fountains or other water features; play structures for children; gardens or seasonal planting areas; pools; athletic fields; fishing and boating; mowed parkland; picnic areas; horse trails; courts; golf courses; and clubhouses used primarily for recreational purposes (equipment or structures for such uses shall be indicated on the site plan).
- (2) Commercial or industrial may not be included.
- (3) These active recreation areas shall be located in areas with the least impact on natural amenities and resources.

**E.** Passive open space shall be designed with the goal to preserve the significant natural environmental features of the site, features primarily of undisturbed or unimproved character. They shall not include the items listed in [Sections 5.6.3.C\(3\)](#) or [5.6.3.C\(4\)](#).

**F.** All areas designated for open spaces shall be improved for active park and recreational uses or preserved in a natural state unless otherwise permitted as follows:

- (1) They are designated to be utilized for farming when authorized in a conservation easement as outlined in [Section 5.6.3.I](#), or in home owners association covenants and restrictions recorded with the Warren County Recorder's Office; or
- (2) They are designated to be utilized for stormwater management facilities. Easements shall be required to enable the maintenance of these facilities; or
- (3) Disturbance of the open space is required for the construction of improvements and infrastructure or for mitigation efforts that may be required by FEMA, the Army Corps of Engineers, or other county or federal agencies.

**G. Reclamation of Disturbed Open Space**

Any area designated as required open space or for community facilities that is to be preserved in its natural state but is disturbed during construction shall be landscaped with vegetation native to the area similar to that which existed prior to construction.

**H. Protection and Ownership of Open Space**

- (1) Further subdivision of the open space for uses other than those prescribed in this section and the approved PUD plan shall be prohibited.
- (2) All required open space shall be owned by either:
  - (a) The township, county, state, or park district subject to acceptance by the appropriate legislative body; or
  - (b) Held jointly or in common by the owners of the building lots with maintenance provided through a home owners association or similar association. If the open space is to be owned jointly or in common by a home owners association, the open space shall be protected through the establishment of a conservation easement as outlined in [Section 5.6.3.I](#) below. Such easement, along with any deed restrictions or

covenants of the home owners association, shall be recorded with the Warren County Recorder's Office.

**I. Conservation Easements**

- (1) At the time when an applicant records the plat for the approved PUD development as a subdivision, a conservation easement shall be placed on all lands and private waters used to satisfy the open space requirement. The conservation easement shall:
  - (a) Run with the land, regardless of ownership;
  - (b) Provide for protection of the land in perpetuity;
  - (c) Be granted and deeded to the township, a township approved land trust, or other qualified organization approved by the township;
  - (d) Be solely for the purpose of ensuring the land remains undeveloped; and
  - (e) Shall not, in any way, imply the right of public access or any other right or duty not expressly established by the terms of the easement.
- (2) While the township, township approved land trust, or other qualified organization may hold the conservation easement, the property itself shall still be owned by the original property owner, the developer, or the home owners association. If it is to be owned by the home owners association, the association's documents shall be recorded with the subdivision plat and a copy submitted to the zoning inspector to be maintained as part of the township's records.
- (3) The conservation easement shall include information on how the property will be maintained by the property owner and shall also state that failure to maintain the property in accordance with the conservation easement agreements shall be considered a violation of this zoning code. In addition, the holder of the easement may pursue any remedy provided by law or equity, including, but not limited to, the remedies in ORC Section 5301.70.
- (4) As an alternative to a conservation easement, the township may approve the designation of a separate parcel of land with deed restriction, or other suitable legal protection of the property to ensure open space will be provided.

**J. Home Owners Associations**

- (1) A home owners association shall be established to permanently maintain all open space and common areas if such areas are not transferred and accepted by the township, county, state, or park district.
- (2) All home owners association agreements shall be submitted to the zoning inspector as part of the PUD final site plan. No set of proposed covenants, articles of incorporation, or bylaws of a home owners association shall permit the abrogation of any duties set forth in this section.
- (3) All home owners associations shall guarantee the maintenance of all open space and common areas within the boundaries of the PUD through the deed restrictions or covenants.
- (4) Membership in the association shall be mandatory for all purchasers of lots in the development.



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- (5) The association shall be responsible for maintenance, control, and insurance of all common areas, including required open space.
- (6) These regulations are not applicable to commercial establishments.