

PRELIMINARY DRAFT ZONING ORDINANCE FOR PUBLIC FORUM

TUESDAY, JUNE 13, 2023

CHAPTER 9

MIXED USE PLANNED UNIT DEVELOPMENT DISTRICT (M-PUD)

Intent

The M-PUD District is intended to 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, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the city and the general public. More specifically, this zoning district is intended to provide greater flexibility in the placement and design of commercial, office and residential facilities in a single zoning district than is generally possible under conventional zoning regulations. It is further the intent of these regulations to require a unified, integrated planning and construction project using specialized modern zoning techniques, requirements and review procedures to achieve a cohesive development, promote compatibility and walkability between such uses and promote and encourage innovation in land use planning and design to achieve a higher quality of development than might otherwise be possible. While traditional bulk requirements may be set aside in this District in order to achieve particular design objectives, the city intends that any such district use should share responsibility for maintenance of landscaping, sidewalks, and/or other facilities used or held in common, adhere to all applicable health and building codes and clearly demonstrate a commitment to maintaining a balance between residential and non-residential use, between public open space provided and private land set aside, and in accordance with the ability of the remainder of the city to absorb and effectively deal with the attendant growth.

Permissible and prohibited uses in the M-PUD.

Subject to review and approval as provided in this division, the range of uses permissible within an M-PUD shall be limited to any residential, office or commercial uses in the C-N, C-DTC, C-DT, C-T, C-G, and C-OP districts. No other uses shall be permissible in the M-PUD district, including but not limited to adult businesses and any industrial uses otherwise permitted in the I-IND districts.

Sec. 46-643. Minimum design requirements.

Setbacks and yards. Except as provided in this section, the minimum setback, yard, and open space requirements required shall be as follows:

A landscaped buffer of at least 40 feet wide measured from the road right-of-way shall be provided on the subject property adjacent to any state trunk highway or United States highway.

A landscaped buffer of at least ten feet wide measured from the road right-of-way shall be provided on the subject property adjacent to any internal public street.

A landscaped buffer of at least 50 feet wide shall be provided on the subject property between commercial uses and residential uses located on the subject property and between residential uses on the subject property adjacent to any other property zoned or used for residential purposes.

A landscaped buffer of at least 25 feet shall be provided on the subject property between commercial uses on the subject property adjacent to any other property zoned or used for commercial or industrial purposes.

No building shall be constructed on the subject property closer than 75 feet from the adjacent state trunk highway right-of-way.

No building shall be constructed on the subject property closer than 25 feet from the adjacent internal public street right-of-way.

No residential building or development shall be constructed on the subject property closer than 25 feet from any private roadway.

No residential building or development shall be constructed on the subject property closer than 25 feet from any parking area.

No commercial buildings on the subject property shall be located closer than 100 feet from any residential buildings on the subject property.

The subject property shall provide for a minimum open space of 35 percent, including the landscaped buffers.

For purposes of this subsection, a "landscaped buffer" shall mean the area in which either existing vegetation is preserved on the subject property or landscaping or decorative fencing is planned and maintained for screening and as part of the overall landscape plan for the subject property. No parking or pavement is permitted in the landscaped buffer, except for pavement for ingress and egress, sidewalks or other pedestrian walkways.

Setback variation. Notwithstanding, the required setbacks, yard, and open space may be reduced or increased at the discretion of the planning commission or city council to avoid unnecessary disruption of adjacent land uses or environmental features and to ensure a high degree of compatibility between the M-PUD and adjacent development:

A setback reduction not to exceed 50 percent of the otherwise required distance may be permitted from an M-PUD lot line that abuts a commercial district, provided pedestrian linkages are provided. A 100 percent setback reduction may be given to properties in the Downtown or Downtown Core zoning districts.

A setback increase or additional buffering such as landscaping, fencing, or walls may be required along an M-PUD lot line that abuts a residential district if the planning commission or city council determines it is necessary to protect the integrity of the adjacent residential district. In no event shall the setback required be more than two times the distance that would otherwise be required by the zoning district in which the land use is permitted.

Screening. Screening shall be required along any lot line that abuts a residential district and may be required along other lot lines as determined necessary by the planning commission or city council. Screening shall be designed and constructed in a manner compatible with adjacent districts and may consist of decorative fencing, landscape, or a combination of each.

Fencing. The planning commission or city council may require the erection of an architectural screen or fence between the M-PUD and adjoining property if it is determined a need for such screen or fence is necessary to protect or preserve the value or security of adjoining properties. In the event an architectural screen or fence is required, the applicant shall also incorporate landscape treatment along said screen or fence in order to mitigate the visual impacts of the screen or fence from off-site.

Sign standards. The M-PUD shall generally be regulated by the sign standards of section 46-664. Notwithstanding, as part of the review and approval of the site plan, the planning commission and city council may vary any sign standards under section 46-664, including without limitation, the size, location, and number and types of permitted signs.

Parking and circulation. The M-PUD shall be regulated by the parking and loading standards of Section ~~46-658~~ **XX**; provided, however, as part of the sketch and final site plan, the applicant must show the location and right-of-way dimensions of all public highways, streets and alleys within 300 feet of the proposed project together with the location, width, and use (i.e., one-way, two-way, truck only, etc.) of all adjoining public or private driveways and internal roadways. The parking and circulation plan shall incorporate measures for shared circulation and parking. The planning commission or the city council may also require:

- Acceleration or deceleration lanes or other measures deemed necessary for efficient traffic flow and for public safety and welfare;

- The elimination or movement of proposed curb cuts;

- That patron, resident, employee and/or delivery traffic entry points be modified and/or relocated;

- Off-site transportation improvements deemed necessary as a result of the M-PUD;

- The reduction or increase of the number of parking spaces (without limitation by percent) required by Section **XX**, as determined necessary to support the range of uses proposed;

- Modifications in the location and/or arrangement of loading areas;

- A traffic and circulation study to be performed by a qualified traffic engineer; and

- Other traffic and circulation improvements necessary to secure the public health, safety, and welfare.

Pedestrian circulation. The M-PUD shall incorporate a pedestrian circulation system affording the public a safe means of movement throughout the site. An M-PUD located adjacent to other

commercial or residential uses or developments shall incorporate a pedestrian circulation system which coordinates the safe flow of pedestrian movement to and from those uses and developments.

Snow storage. The site shall include provision for the placement of snow which must be stockpiled during winter months. Such placement shall not impact the efficient and safe movement of pedestrian and vehicular circulation. A minimum area equal in size to ten percent of the required parking lot area, including access lanes, must be provided for stockpiling of snow. This area must be shown on the landscape plan. This ten percent snow storage area may be provided on lawn areas or on paved areas.

Landscape plan. The applicant shall submit a detailed landscape plan. The plan shall include the type, size, and location of all yard areas and vegetation, areas to be irrigated by underground sprinkling, sidewalks, patio and pedestrian seating areas, and other such features.

Maintenance of views. Buildings shall be designed and located in a manner which limits the horizontal blockage of views through the site. Of particular importance is the maintenance of views to Lake Cadillac from downtown commercial sectors and corridors to and from the city, including adjacent highways and freeways.

Modification to design standards. The planning commission or city council may authorize variations from the design requirements of this section that are not incompatible with the purposes of the M-PUD and will not be obstructive of view, light, air, or a hazard or nuisance or annoyance to adjacent developments, motorists, or the general public. In making such request for deviations, the applicant shall demonstrate to the satisfaction of the planning commission or city council that modification of a design standard is necessary for development of the M-PUD, is consistent with the purposes of the M-PUD, and will not have an unreasonable adverse effect on adjacent uses or the public.

Requirements.

Eligibility. To be eligible for M-PUD zoning approval, the applicant must demonstrate that the following criteria will be met:

Recognizable benefits. The planned development must result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and result in a higher quality and diverse development than could be achieved under conventional zoning.

Minimum area. There is no required minimum area.

Development agreement and ownership. The application shall be filed and jointly signed by all owners of the land proposed for rezoning to an M-PUD. Notwithstanding, the proposed development shall, at the time of approval or execution of the development agreement, be under ownership or control such that all owners of the land proposed for rezoning to an M-PUD shall have responsibility for completing the project, or assuring completion of the project, in conformity with this Code and to ensure a cohesive development. A development agreement, which shall be recorded with the Wexford County Register of Deeds between the city and any owner of land proposed for rezoning, is required by this Code. The development agreement shall include regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density. The

development agreement shall include all conditions of approval of the planned development including, but not limited to, land use restrictions, landscaping and lighting requirements, architectural features and materials, and a requirement that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the owner or their successors. The development agreement must bind all successors in title to any commitments made by the initial owner or applicant. Nothing in this subsection shall prohibit a transfer of ownership or control, provided that no such transfer shall occur prior to recording the development agreement with the Wexford County Register of Deeds.

Utilities and other infrastructure. Public water, sanitary sewer, storm drainage facilities, and streets shall be provided as part of the site development. All public utility transmission lines within the planned development shall be placed underground. The planning commission may waive the utility underground requirement for MPUD's involving existing buildings or sites under 5 acres. All proposed infrastructure, including utility and other easements shall be indicated on the M-PUD sketch plan and final site plan and shall be subject to all of the following:

All utilities and streets, including design and construction, shall be subject to approval by the city departments having regulatory control over said systems.

All costs for utilities shall be paid by the applicant. Off-site public infrastructure improvements necessary to serve the planned development shall either be in place or shall be constructed at the sole cost and expense of the applicant or by agreement acceptable to the city council.

The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities, and shall not place an unreasonable burden upon the subject site, surrounding land, property owners and occupants, or the natural environment.

Planning, design, development and building materials. The planning, design, development and building materials of any M-PUD shall incorporate best development practices and shall be designed and operated to:

Complement the design principles and standards reflected in the city's master plan and this Code.

Maintain a high standard of scenic and visual qualities with due regard to impacts on neighboring properties and motorists, including but not limited to varied roof heights and pitches that add visual interest and obscure roof mounted mechanical equipment.

Discourage the establishment of uses deemed more appropriate to the city's core downtown. If the subject property is located outside of the city's downtown development authority boundaries, no more than five percent of the total available commercial space planned for the subject property shall consist of uses occupying less than 2,250 square feet for a single use. This limitation shall not apply to ancillary uses, including but not limited to banks, coffee shops, fast food or food court areas, wholly contained within a larger commercial building.

Encourage the overall design and development of the area in a cohesive and planned manner taking into account access management controls and vehicular circulation, pedestrian and non-vehicular traffic amenities, public spaces, parking, signage, outdoor lighting, landscaping and screening, loading/unloading areas, utilities and public services, energy efficiency, open space conservation; and the like.

Ensure that all open areas of any lot not used for parking, driveways or permitted storage be landscaped with an attractive mix of trees, shrubs, berms, flowers, natural mulch, planted ground cover, and other landscaping elements.

Function in an environmentally sensitive manner with due regard for the management and protection of surface water and the containment of noise, odor, and light pollution.

Improve pedestrian connectivity by providing a circulation system that is conducive to pedestrian and bicycle travel throughout areas designed for residential purposes as well as provisions for convenient and safe non-motorized movement from residential areas to the office and commercial sectors of the planned development.

Mitigate views of large off-street parking lots through filtering/screening with appropriate landscaping.

Coordinate the design of buildings and their sites to create a cohesively planned and visually attractive development.

Encourage the use of architectural design features such as arches, canopies, awnings, covered walkways or porticos, offsets, reveals, recesses, columns, display windows, tile work and molding, and other similar visually appealing features.

Incorporate the use of building materials that provide for an aesthetically pleasing and consistent overall development, while recognizing the benefits of diversity. In that regard, the following building materials shall be permitted:

All exterior walls shall be at least 60 percent masonry. Masonry coverage calculation does not include doors, windows, window box-outs, or bay windows that do not extend to the foundation. Masonry shall be defined as:

Stone material. Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.

Brick material. Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be severe weather (SW) grade, and type FBA or FBS or better.

Concrete masonry units. Concrete masonry units used for masonry construction shall meet the latest version of the following applicable specifications; ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Non-Load-Bearing Units. Concrete masonry units shall have an indented, hammered, split face or other similar architectural finish as approved by the city. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.

Concrete panel construction. Concrete finish or precast panel (tilt wall) construction shall be painted, fluted, or other approved architectural concrete finish. Smooth or untextured concrete finishes are not acceptable.

Stucco (exterior Portland cement plaster with three coats over metal lath or wire fabric lath).

Cement fiberboard.

Architectural glass block (less than 25 percent reflectance).

Structures 20,000 square feet or less shall require a minimum of two distinct building materials from the approved masonry list be utilized on all facades to provide architectural detail and interest.

Structures over 20,000 square feet shall require a minimum of three distinct building materials from the approved masonry list be utilized on all facades to provide architectural detail and interest.

Secondary materials must cover a minimum of ten percent of the building facade on all sides.

Architectural accent materials not exceeding 20 percent of the exterior walls, may include metal and wood. Metal accents may include profiled panels, deep-ribbed panels and concealed fastener systems. Exterior finish shall be film laminated or baked on enamel painted to the wall manufacturer's standards. Synthetic stucco, also known as exterior insulation and finish system (EIFS), may be used as architectural accent material when placed more than four feet above grade.

Roofing materials. Architectural textured 25-year minimum warranty asphalt or synthetic shingles, standing seam metal, or tile roofs are allowed for sloping roofs. Roof materials for flat roofs shall provide the equivalent level of protection.

Prohibited materials. The following materials are prohibited:

Aluminum siding or cladding.

Corrugated, metal, plastic, or fiberglass panels.

Galvanized, aluminum coated, zinc aluminum coated or unpainted exterior metal except as permitted as architectural accent material.

Wood siding or plastic siding.

Synthetic stucco, exterior insulation and finish system (EIFS), placed less than four feet above grade.

Unfinished concrete block.

Exposed aggregate.

Wood roof shingles.

Reflective glass.

Application procedure and approval process.

General. Whenever any M-PUD is proposed, the application for an M-PUD shall serve as a petition to rezone the subject property to the M-PUD district. The application for an M-PUD shall include a request for sketch site plan approval and shall be filed with the city planning commission. The petition for rezoning and sketch plan approval shall be considered concurrently and the requirements of the

Michigan Zoning Enabling Act, being Public Act 110 of 2006 (MCL 125.3101 et seq.) and this Code for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by MCL 125.3503 shall fulfill the public hearing and notice requirements of MCL 125.3306.

Application for sketch plan approval. So that the planning commission, city council and the developer may reach an understanding of what is being proposed, and what is required, the developer shall submit a sketch site plan and related project information with an M-PUD application to the planning commission. The sketch site plan shall be drawn to scale, fully dimensioned, and shall clearly show all of the following information:

Boundaries and size of property;

Location (including setbacks from property lines), size and height of all buildings and building facades;

Interior roadway system including parking facilities, proposed and existing rights-of-way, loading and unloading areas, curb cuts to public roads, and adjacent streets;

The interior open space system with details on the size and use of the space, proposed ownership of any open space at M-PUD completion, and method of maintaining same;

The overall water supply system, waste water system and stormwater drainage system, including any connections to public facilities;

Principal ties to the neighborhood and community with respect to transportation, or other public utilities, including gas and electric service;

Delineation of the various residential and nonresidential areas and uses, including size, location and number of housing units and other buildings;

Construction phases and construction schedule;

Existing natural features and proposed landscaping;

Topography, existing and proposed (contour intervals of no greater than five feet);

Drainage plan and calculations to show the site is designed for a 10-year storm.

Location, size and function of proposed signs;

Location, size and function of any on-site lighting, including a photometric plan for the site; and

Location of all structures within 300 feet of the property line of the subject property.

In addition to the sketch plan, the applicant shall submit copies of any other information reasonably requested by the planning commission or city council.

Public hearing. The planning commission and city council shall each hold at least one public hearing on any application in accordance with the provisions of this Code and the Michigan Zoning Enabling Act.

Following the public hearing. The planning commission shall, within a reasonable time of the public hearing, make a recommendation to the city council to deny, approve or approve with conditions the application. The city council shall receive and consider the recommendation of the planning commission and shall deny, approve or approve with conditions the application, including the sketch plan.

Basis for conditions. Due to the nature of the M-PUD, additional conditions may be required by the planning commission or the city council. Any conditions imposed by the planning commission or city council must be reasonable and intended to do one or more of the following:

- Ensure that public services and facilities affected by the M-PUD will be capable of accommodating increased service and facility loads;
- Protect the natural environment and conserve natural resources and energy;
- Ensure compatibility with adjacent land uses;
- Promote the use of land in a socially and economically desirable manner;
- Ensure compliance with the standards of this division; or
- Promote and protect the public health, safety, and welfare.

Approval of sketch plan. If the sketch plan is approved by the city council, such approval shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan. The city council shall find that compliance with the following standards have been met before approving any sketch plan:

- The M-PUD site and proposed uses shall be served by necessary public infrastructure including roadways and utilities and that said infrastructure is appropriately sized and arranged to accommodate the requirements of the M-PUD while avoiding negative impacts on the infrastructure to which it will connect;
- The M-PUD site, proposed uses and related development shall be consistent with the city's master plan;
- That facilities and uses such as parking, loading and unloading areas, dumpster locations, active play areas and other facilities and uses that are adjacent to residential development shall either be located internal to the M-PUD site or appropriately buffered through landscaping and other screening techniques;
- That proposed parking and vehicular and pedestrian circulation, including points of ingress and egress, are properly sized and located;
- The M-PUD site features including, but not limited to, walkways, exterior lighting, play areas, common areas, building entry points, garage and storage areas, landscaping and signs have been appropriately designed and arranged to compliment the principle M-PUD buildings and uses and avoid adverse impacts on adjacent property or uses;

Effect of sketch plan approval. Approval of the sketch plan only warrants to the applicant certification that the proposed M-PUD is appropriate for the planned location and consistent with basic M-PUD site development and design standards as required for sketch site plan approval, subject to any additional terms and conditions of the development agreement approved as part of final site plan approval.

Request for changes in plan. If it becomes apparent that certain elements of the sketch plan, as approved by the city council, become unfeasible and in need of substantial modification, the applicant shall then resubmit the entire sketch plan, as amended, to the planning commission, which shall be reviewed by the planning commission and the city council in the same manner as the original sketch plan. Notwithstanding, if a change to the sketch plan is not substantial, the change may be reviewed and approved administratively by the community development director or his or her designee.

Application for final site plan approval. After receiving approval of a sketch plan from the city council, the applicant shall, within one year, prepare a final site plan and submit it to the planning commission. If there are no substantial changes to the sketch plan as approved, the zoning administrator may extend the validity of the sketch plan past the one year time frame if reasonable causes for the delay can be demonstrated by the developer. The final site plan shall be reviewed by the planning commission in the same manner as the sketch plan, except that no additional public hearings shall be required. Within a reasonable time following submission of a complete final site plan, the planning commission shall make a recommendation on the final site plan to the city council. The final site plan submitted to the planning commission must be a construction design document and, in addition to the information provided on the sketch plan, contain sufficient design information to determine compliance with any applicable city codes and construction requirements including, but not limited to, the following systems:

Roads/streets and site access, including location and geometrics;

Public water;

Public sewers (sanitary and storm);

Surface water drainage and snow storage;

Emergency access routes;

Fire hydrant locations;

Exterior lighting;

Energy and communication facilities, including type and location;

Location and size of public and private easements;

Exterior signs, including size and location;

Parking, loading and unloading, and vehicular and pedestrian circulation;

Detailed landscape plan, including all buffers;

Solid waste disposal; and

Other information reasonably requested by the planning commission, after consultation with city staff, necessary for determination of compliance with city codes, resolutions, rules and regulations.

City council approval of detailed or final site plan. Within a reasonable time following the recommendation from the planning commission, the city council shall review the final site plan and in making a determination of approval, the city council must find that:

The systems and project elements are in substantial conformance with the sketch plan and properly arranged and adequate to meet the intended uses within the M-PUD;

The systems and project elements are consistent with the design requirements of the city; and

The final site plan complies with all regulations of this Code and any other applicable federal, state and local statutes, ordinances, codes, rules and regulations.

Action on final site plan. The city council shall deny, approve, or approve the final site plan with conditions or modifications and so notify the applicant and the building inspector. Final approval may be granted on each phase of a multi-phased M-PUD if each phase contains the necessary components to

insure protection of natural resources and the health, safety, and welfare of the users of the M-PUD and the residents of the surrounding area.

Expiration. In any case where construction on the M-PUD has not commenced within one year from the date of final approval or construction on any phase fails to conform with the approved phasing schedule, final site plan approval shall expire and shall be null and void. Notwithstanding, the community development director or his or her designee may administratively extend the expiration date of the final site plan for a period of up to two years upon the demonstration by the developer of reasonable causes.

Effect of approval. The final site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan. After a final site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the planning commission and city council.

Bond requirement. A performance bond, bank letter of credit or other surety acceptable to the city may be required and be filed with the city treasurer at the time of application of a building permit in such amounts and for such periods adequate to ensure compliance with the approved plans.

Development agreement. Prior to final site plan approval and commencement of construction on any project permitted under this division, the owner shall enter into a development agreement with the city, which agreement shall provide such safeguards and guarantees as may be required by the city. Said agreement shall consist of the approved final site plan, conditions which may have been attached to the M-PUD approval, bond requirements, necessary building and other required permits, and payment of all fees.