

**ARTICLE 36  
PLANNED DEVELOPMENT**

**36.01 PLANNED DEVELOPMENT OBJECTIVES**

The Planned Development (PD) District and the associated planning and development regulations as set forth and referred to herein are designed to achieve the following objectives:

- A. Provide flexibility in the regulation of residential, commercial and office land development;
- B. Encourage a variety of housing and building types, a compatible mix of commercial and residential development, and creative site design;
- C. Encourage provision of useful open space, and preservation of valuable and unique natural resources;
- E. Provide a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, prevents the disruption of natural drainage patterns, and contributes to the ecological well being of the community;
- F. Promote efficiency through a more effective use of land than is generally achieved through conventional residential and/or commercial development resulting in substantial savings through shorter utilities, streets and other public services;
- G. Provide a residential and/or commercial development pattern in harmony with land use density, transportation facilities, community facilities, and objectives of the Batavia Township Growth Policy Plan; and
- H. Provide opportunities for alternate energy and utility uses, such as wind and solar energy generation uses as principal uses, to be sited, designed and operated consistent with the community character and growth policies of Batavia Township.

**36.02 PROVISIONS GOVERNING PLANNED DEVELOPMENTS**

- A. General

Because of the special characteristics of Planned Developments, special provisions governing the developments of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Article and those of the other Articles of this Resolution, the provisions of this Article shall prevail for the development of land for Planned Developments. Subjects not

covered by this Article shall be governed by the respective provisions found elsewhere in this Resolution.

B. Construction

No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permits shall be issued until approval of the PD Final Development Plan by the Township Zoning Administrator in conformance with the requirements of this Article 36 PD Planned Development provisions have been met.

### **36.03 USES PERMITTED**

- A. Any use that is permitted in any zoning district may be approved within a Planned Development provided that the project shall be planned, developed, and operated in accordance with an approved development plan. Specific uses, structures, and developments shall be properly integrated with the surrounding area in such a way as to promote the health, safety, morals, general welfare, and wholesome environment of the general public and of the occupants of nearby property, and to avoid nuisances to the general public or to the occupants of nearby property. All uses shall be approved by the Township as part of the development plan review process.
- B. Solar Energy Systems and Wind Energy Systems as a principal use of a property may be approved as a Planned Development provided that the project shall be planned, developed, and operated in accordance with an approved development plan. The Township shall review such principal use Energy Systems using the development standards in Section 36.12 Energy System Design Standards.

### **36.04 RECOMMENDED MINIMUM PROJECT AREA**

It is recommended that the gross area of the tract to be developed under the Planned Development approach shall be a minimum of five (5) acres.

### **36.05 DEFINITIONS**

The following words and phrases shall have the following meanings applicable to Planned Developments.

- A. “Common Open Space” is a parcel of land or any area of water, or a combination of land and water within the site designed and intended for the use or enjoyment of occupants of the Planned Development, or consistent with use as described in Section 36.01 H. Common Open Space may contain such complimentary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants but shall not include rights-of-way and required private yards;

- B. “Landowner” shall mean the legal or beneficial owner or owners of all of the land proposed to be included in a Planned Development. The holder of an option or contract to purchase, a lessee or other person having an enforceable proprietary interest in such land, shall be deemed to be a landowner for the purposes of this Article;
- C. “Plan” shall mean the written and graphic submission for a Planned Development, including a Preliminary Development Plan (denoting a prospectus for development), Final Development Plan, a plat of subdivision, all covenants relating to use, location, and bulk of buildings and other structures, density of development, private streets, ways and parking facilities, common open space and public facilities;
- D. “Planned Development” (PD) is an area of land, controlled by a Landowner, to be developed as a single entity for a variety of dwelling units and/or other uses, the Plan for which may not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one zoning district created, from time to time, under the provisions of the Batavia Township Zoning Resolution; and
- E. “Professional Consultant” shall mean a person who possesses the knowledge and skills, by reason of education, training, and experience to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental and design characteristics and implications in order to foster a unified plan for development. The professional consultant may be a registered architect, landscape architect, engineer, planner, or equivalent.

### **36.06 PROJECT OWNERSHIP**

The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

### **36.07 OPEN SPACE IN PLANNED DEVELOPMENTS**

#### **A. Common Open Space**

No less than twenty (20%) percent of the gross acreage in any Planned Development shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The open space shall be disposed of as required in Section 36.07 B. Required open space shall be readily accessible and usable by occupants of the approved development.

#### **B. Disposition of Common Open Space**

The required amount of common open space land reserved under a Planned Development shall be held in corporate ownership by owners or the Homeowners Association of the project area for the use of each owner who buys property within the development or under exceptional circumstances be dedicated to the Township, following consent and approval by the Township, and retained as common open space for public parks, recreation, and related uses. All land dedicated to the Township must meet the Batavia Township Board of Trustees requirements as to size, shape, and location. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication to the Township, unless such land or right-of-way is usable as a trail or other similar purposes and approved by the Batavia Township Board of Trustees. A Homeowners Association (HOA), or other appropriate management entity for non-residential use projects, shall be established and in place prior to the development of any land within a PD with the open space(s) under their control being denoted on the record plat and identified as “non-buildable” other than for HOA approved uses.

C. Maintenance of Open Space

1. A Homeowners Association, or other appropriate management entity for non-residential use projects, shall be responsible for maintenance of open space and other required amenities within the proposed PD. A Homeowners Association shall be established, and the Bylaws and Articles of Incorporation shall be recorded at the time of approval of the Final Development Plan, prior to issuance of a Zoning Certificate or approval of a record plat.
2. The Batavia Township Board of Trustees may require a maintenance bond be provided or an escrow account established by the developer for maintenance and upkeep of all common areas until such time as 75% of the lots have been sold.

D. Lots to Have Access to Common Open Space

1. Every residential property developed under the Planned Development approach should be designed to easily access common open space or similar areas. Open space areas shall be accessible to all residents and dwelling units and shall be conveniently located in relation to dwelling units. This does not limit the creation or protection of buffer areas not intended for active use. Open space areas shall have minimum dimensions which are usable for the functions intended and which will permit proper maintenance. The Batavia Township Board of Trustees may require that natural amenities, such as but not limited to, ravines, rock, outcrops, wooded area, tree or shrub specimens, unique wildlife habitat, ponds, streams, and marshes be preserved as part of the open space system.

2. Common open space within non-residential use areas shall be designed to provide maximum benefit to the users of the development and should not be provided in unusable fragments. The design of the open space should create open space areas that are accessible and oriented to pedestrian activity.

### **36.08 UTILITY REQUIREMENTS**

Underground utilities, including telephone and electrical systems, are required within the limits of all Planned Developments. Appurtenances to these systems which can be effectively screened may be exempt from this requirement.

### **36.09 DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS**

Planned Developments may be developed following the provisions of this Section.

- A. Minimum Recommended Lot Sizes, Setbacks, Building Line Widths, Dwelling Square Footages and Maximum Recommended Density Levels.
  1. Minimum requirements with respect to lot sizes, setbacks, building line widths, and dwelling square footages shall be duly noted on the record plat. Recommended development standards are specified for different land use types. The Township may approve variable development standards based on the specific conditions and development patterns for a Planned Development. The Township may consider the impact that proposed property maintenance may have on approval of variable development standards – i.e. yard, landscaping, building, snow removal by a homeowners association.
  2. The total residential density of the PD shall be established on the NET acreage of the residential portion of the PD, excluding any areas of commercial, office, or non-residential use including open space lots. Slopes greater than 20%, existing public right of ways, and existing utility easements shall be subtracted from the total acreage to calculate net density. The Township may allow increased density in a PD if the Township determines that the proposed density will be appropriate for the property and the area, and that the proposed design justifies the increase in density.

#### **EXAMPLE TO BE USED FOR CALCULATING NET DENSITY**

100 gross acres (including min. of 20% open space or 20 acres)  
- 15 acres of > 20% slope  
- 5 acres of existing public r-o-w and/or utility easements  
80 **net** acres

Proposed # of dwellings per dwelling type / net acres = proposed net residential density.

3. The Township shall evaluate the proposed off-street parking to determine if adequate parking is provided and may require additional improvements if deemed necessary.

4. Single-family Detached Dwellings. Each lot intended for a single-family detached dwelling is recommended to have the following minimum standards. Variable standards may be granted by the Township if considered appropriate. If not, minimum standards shall be:

- a. Lot size 10,000 square feet
- b. Lot width at building line 75 feet
- c. Front yard 35 feet from right-of-way
- d. Side yards 20 feet total; 5 feet minimum on one side
- e. Rear yard 30 feet from rear lot line
- f. Net density 3 dwelling units per acre

5. Attached Two-family Dwellings and Attached Patio Home-style Dwellings. Each lot intended for an attached two-family or attached patio home-style dwelling is recommended to have the following minimum standards. Variable standards may be granted by the Township if considered appropriate. If not, minimum standards shall be:

- a. Lot size 6,500 square feet
- b. Lot width at building line 50 feet
- c. Front yard 35 feet from right-of-way
- d. Side yards 25 feet total; 10 feet minimum on one side
- e. Rear yard 35 feet from rear lot line
- f. Net density 6 dwelling units per acre

6. Multi-family Dwellings and Attached Single-family Dwellings. Multi-family dwellings and attached single-family dwelling units, including apartments, attached townhouse, clustered patio homes and condominium units, may be incorporated into a proposed Planned Development, if the Township finds that such use will be consistent with the character of the area, compatible with surrounding uses, and in compliance with the standards of this Article. Variable standards may be granted by the Township if considered appropriate. If not, minimum standards from the perimeter property line shall be:

- a. Front yard 50 feet from the public right-of-way; or 30 feet from a private right-of-way easement
- b. Side yards 50 feet on each side
- c. Rear yard 50 feet from rear lot line
- d. Between buildings 25 feet between buildings

- e. Net density 10 dwelling units per acre
  - f. In areas where townhouses or attached condominiums are developed, a maximum of eight (8) townhouse units in any contiguous group is recommended.
  - g. The multi-family structures and pavement shall not utilize more than 60% of the net acreage allocated to the complex.
7. The square footage of all dwelling units, attached and detached units, within a PD shall follow the guidelines established by the Zoning Resolution in effect at the time of issuance of Zoning Certificates unless modifications are agreed upon at the time of PD approval.
8. Non-residential Uses. Each lot in a PD intended for a non-residential use is recommended to have the following minimum standards. Variable standards may be granted by the Township if considered appropriate. If not, minimum standards from the perimeter property line shall be:
- a. Lot size 15,000 square feet
  - b. Lot width at building line 100 feet
  - c. Front yard 40 feet
  - d. Side yards 20 feet on each side
  - e. Rear yard 40 feet from rear lot line
  - f. Parking setback from right-of-way 10 feet
  - g. Parking setback from other lot lines 5 feet.
9. Other Development Controls for Non-residential Uses. The following development controls shall be applied to non-residential uses within a PD:
- a. Parking and loading requirements shall be in accordance with the provisions set forth in Article 8 of this Resolution or as approved on the Preliminary or Final Plan.
  - b. No outdoor sales or display of any materials shall be permitted in the PD unless approved as a part of the Preliminary or Final Plan.
  - c. No lighting shall be permitted which will have unreasonable glare from any use located in the PD onto any street or into an adjacent property. A lighting plan illustrating the proposed location, height, pole and fixture type, design, lamp, and photometric plan shall be approved on the Preliminary or Final Plan or shall comply with the regulations of Section 8.02 H. Outdoor Lighting as minimum standards.
  - d. All business activities permitted within the PD shall be conducted within a completely enclosed building, except for the following:

- i. Off-street parking and loading and/or unloading areas.
- ii. Outside play areas as part of child day care centers, churches, and schools.
- iii. Accessory seating area for eating establishments.
- iv. Open air display areas located on the same lot as the primary permitted uses. Such area shall be clearly identified on the PD plan as “outside display area”.
- v. Fuel Dispensing.
- vi. Other activities as approved on the Preliminary or Final Plan.
- vii. Mechanical equipment, whether ground or roof mounted, shall be screened from view from public rights-of-way.
- viii. Circulation systems (vehicular and pedestrian) shall be coordinated with those of adjacent areas.
- ix. No use producing unreasonable objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
- x. All waste receptacles shall be contained in an area screened on three sides by a six (6) foot tall solid wood or masonry enclosure. The fourth side is to contain steel enforced wood gates. The standards in Section 7.27 Dumpsters and Trash Handling Areas for Non-Single-Family Districts shall be used to establish minimum design standards.
- xi. Signage is to be consistent with Article 40 of this Resolution or as approved on the Preliminary or Final Plan.
- xii. Landscaping/Screening shall be as approved on the Preliminary or Final Plan. The standards in Section 7.07 Bufferyard and Landscaping and Section 8.02 I. Interior Parking Area Landscaping shall be used to guide landscape requirements.

### **36.10 HEIGHT REQUIREMENTS**

It is recommended that heights of principle use structures in the PD shall not exceed forty (40) feet and that heights of accessory structures shall not exceed 15 feet.

### **36.11 STREET DESIGN**



The design of streets is significant in determining the character of Planned Developments. The following conditions are recommended standards within Planned Developments.

- A. Streets should have a minimum pavement width of 28 feet for collector streets and 24 feet for local/cul-de-sac streets.
- B. Width of private streets are to be reviewed by the Township based on input from the Township fire and maintenance departments, and the County.
- C. Parking should be limited to one side of the street, recommended to be located opposite the fire hydrants.
- D. Sidewalks should be provided on both sides of public streets.
- E. The Township shall evaluate the proposed off-street parking to determine if adequate parking is provided and may require additional improvements if deemed necessary.
- F. Landscape islands and/or irrigation systems proposed in public rights-of-way shall be reviewed and approved by the Township, including the Township Service Director and Fire Department.
- G. Planting of trees within public rights-of-way shall not be permitted unless approved by the Township. Planting of trees on proposed private lots are encouraged at the rate of one (1) tree per lot in the front yard, and two (2) trees for corner lots.

### **36.12 PRINCIPAL USE ENERGY SYSTEM DEVELOPMENT CONTROLS**

The following development controls shall be applied to principal use energy system uses within a PD:

- A. An applicant for a proposed principal use energy system shall provide the Township with the following items and/or information when applying for a Planned Development:
  - 1. An engineering report that shows:
    - a. The total size and height of the proposed solar or wind energy system.
    - b. Data specifying the megawatt size and generating capacity in megawatts of the solar or wind energy system.

c. Hazardous materials containment and disposal plan.

2. A site drawing showing the location of the solar or wind energy system including all equipment and components thereof in relation to (and measurements of distances from) all existing structures on the property, roads and other public rights-of-way, and neighboring property lines.
3. Evidence of compliance with applicable setback and all other applicable development standards.
4. Maintenance. Solar or wind facilities must be maintained in good working order at all times. The owner of the property and owner of the solar or wind facilities shall, within thirty (30) days of permanently ceasing operation of a solar or wind facility, provide written notice of abandonment to the Township. An unused solar or wind facility may stand no longer than three (3) months following abandonment. All costs associated with the dismantling/demolition of the solar or wind facility and associated equipment shall be borne by the property owner. A solar or wind facility is considered abandoned when it ceases transmission of electricity for sixty (60) consecutive days. Removal includes removal of all apparatuses, supports, and or other hardware associated with the existing solar or wind facility and, in the case of ground mounted solar energy systems installed returning the property to a graded, seeded and/or landscaped state similar to its condition prior to the construction/installation.
5. Any other information or materials reasonably requested by the Township.

B. Small Solar Facilities.

A PD intended for a Small Solar Facility is recommended to have the following minimum standards. Variable standards may be granted by the Township if considered appropriate, If not, the minimum shall be:

1. Height. The maximum height of any structure at any point shall not exceed fifteen (15) feet.
2. Visual Buffer. Small Solar Facilities shall have a visual buffer of natural vegetation, plantings, and/or fencing that provides reasonable visual screening to reduce view of and noise from the Small Solar Facilities on adjacent lots and from any public right-of-way shall be provided.
3. Lighting. The Small Solar Facility must narrowly focus light inward toward the solar equipment, be downlit and shielded, and result in a maximum horizontal illuminance level not to exceed one foot-candle. Small Solar Facilities shall be placed or arranged in a manner so as not to reflect unreasonable glare onto adjacent buildings, properties, or roadways. Any lighting shall meet the lighting restrictions of this Resolution.
4. Noise. Any Small Solar Facility shall comply with the noise standards of Section 7.09 of this Resolution.
5. Setbacks. A Small Solar Facility shall have a perimeter setback of a minimum of 50 feet.
6. Building Permits. All Small Solar Facilities and parts thereof shall obtain all applicable required building permits from the County.
7. Advertising. Small Solar Facilities and the property where located shall not be used for the display of advertising. For the purposes of this section, reasonable and customary identification (name, insignia, logo, and/or similar) of the manufacturer or operator of the system that is incorporated into or manufactured on the equipment itself shall not be considered advertising.
8. Road Use Maintenance Agreement. The property owner shall provide for the adequate maintenance and protection of Township maintained, protected, or managed infrastructure (including, but not limited to roadways, rights-of-way, and easements) to be used in connection with the Small Solar Facility as detailed further in a road use and maintenance agreement (“RUMA”) with the Township. Any damaged public roads,

culverts, and bridges shall be repaired promptly to their previous or better condition by the property owner or their designee under the guidance of the appropriate regulatory authority.

9. Safety Services. The property owner shall provide sufficient evidence that the property can be adequately served by the appropriate safety services, for example, a letter from the applicable fire department verifying that emergency response personnel and vehicles can safely reach and service the property, including the area where the Small Solar Facility is located.
10. Glare. Solar panels shall be placed or arranged in a manner so as not to reflect unreasonable glare onto adjacent buildings, properties, or roadways.
11. Any fencing and/or screening installed in connection with the Small Solar Facility shall be harmonious and compatible with the surrounding properties and uses. Fencing shall be maintained in good repair and in an aesthetic manner at all times.
12. Other Restrictions. A Small Solar Facility shall comply with all applicable federal, state, and local laws, rules, and regulations.

### **36.13 PLANNED DEVELOPMENT REVIEW PRODEDURES**

Because of the distinctive nature of Planned Developments, the review process may consist of a simultaneous zoning review and Clermont County subdivision review. Applications for PD's shall be processed in two (2) steps as follows:

#### **A. Step #1 Application for Planned Development**

The required number of copies of the application material for Planned Development consistent with the submission requirements shall be filed with the Township Zoning Administrator and processed in the same manner as any change of zone application. The Zoning Administrator upon receipt of the Application Material for Planned Development, shall transmit copies of said plans to the Township Zoning Commission, the Batavia Township Board of Trustees, and retain one (1) file copy, and may transmit copies of said plans to the County Planning Commission for review.

1. If the Township transmits the Planned Development application to the County Planning Commission for review, the Township Zoning

Commission and Township Board of Trustees may consider the recommendation of the County Planning Commission.

2. The Township may transmit the Planned Development application to the Clermont County Engineers Office, Clermont County Water Resources Department or other county or state agency or department to request review and comment on the proposed Planned Development.
3. The Township recommends that the applicant for a residential PD complete the design review for a subdivision with the County prior to, or simultaneous with, application for the PD Preliminary Plan/Zone Change approval by the Township.

Any comments and recommendations of the County Planning Commission, the comments of associated County agencies, and the recommendation by the Township Zoning Commission shall be transmitted to the Batavia Township Board of Trustees for the final decision on the application for the Planned Development. The Batavia Township Board of Trustees shall notify the County Planning Commission immediately of their action on the zone map amendment.

**B. Step #2 Final Development Plan**

A Final Development Plan for the entire development or the first phase of the development if acceptable, must be approved within eighteen (18) months of the Batavia Township Board of Trustees Preliminary Development Plan approval unless an eighteen (18) month extension of time is granted by such Board. If a Final Development Plan is not filed within this time period, the Township shall follow the procedures established in Section 36.15 Phasing And Delay in Construction. The Township recommends that the applicant complete formal subdivision review by the County prior to obtaining final approval by the Township for the Final Development Plan.

The required number of copies of a Final Development Plan shall be submitted to the Township Zoning Administrator for each phase of the project proposed to be developed. The Final Development Plan shall provide details regarding the construction of improvements within the PD and shall be in accordance with the submission requirements for Final Development Plans. The Zoning Administrator, upon receipt of a Final Development Plan, may transmit copies of said plans to the Township Service Director and other Township departments or County agencies and may request review and comment on the plans. If the Clermont County Planning Commission has not completed their formal subdivision review of the development, copies of the Final Development Plan may also be transmitted to their office for review.

Any comments of the Township departments, County Planning Commission, and County agencies shall be considered by the Zoning Administrator for the decision

on the application for Final Development Plan. The Zoning Administrator shall notify the County Planning Commission immediately of their action.

C. Application for Planned Development/Preliminary Development Plan Requirements – Step #1

1. Petition Procedures

- a. A petition for PD district may be made by the owner(s) of record or by a person(s) acting on behalf of the owner(s) of record of the subject parcel, with the owner's written consent. The owner of each parcel of land within the proposed PD shall be required to sign a Statement of Acknowledgment and consent as provided by Batavia Township within the application packet.
- b. The petition and related information shall be filed with the Township Zoning Administrator who shall transmit copies of the petition to the Zoning Commission secretary and may be transmitted to the County Planning Commission.
- c. In addition to the standard requirement fixed by this Resolution and the rules of the Zoning Commission for applications for a change of zone, additional information as required in the submission requirements and instructions per map amendments to Planned Developments shall also be submitted.

2. Consideration of PD Petition by Zoning Commission

- a. The Township Zoning Commission shall hold a public hearing on the petition.
- b. At the public hearing the petitioner shall present evidence regarding the following characteristics of the proposed development:
  - i. The general character and substance;
  - ii. Objectives and purposes to be served;
  - iii. Compliance with all applicable Township ordinances, regulations, and standards;
  - iv. Scale and scope of development proposed;
  - v. Development schedules including a prospectus detailing the phasing of the project;

- vi. Compliance with the adopted Batavia Township Growth Policy Plan;
  - vii. The proposed development shall have a continuous boundary with all proposed development contained within a contiguous area;
  - viii. Evidence that the proposed Preliminary Development Plan complies with the Subdivision Regulations of Clermont County; and
  - ix. Mitigation techniques for anticipated traffic impacts.
- c. The Zoning Commission may also require that the petitioner provide information at the public hearing concerning economic feasibility of the proposed uses, school districts and boundaries, recreation facilities and costs/revenues for the Township, and environmental impact.
  - d. Evidence and expert opinion shall be submitted by the petitioner in the form of maps, charts, reports, models, or other materials; and in the form of testimony by experts, as will clearly state the full nature and extent of the proposal. Materials shall be submitted in sufficient quantity for public display and for review by the Zoning Commission and other Township officials.
  - e. The Township Zoning Commission shall, within thirty (30) days after such hearing, recommend the approval or denial of the proposed amendment, or the approval of some modification thereof and submit such recommendation together with such application or resolution, Preliminary Development Plan and related required information pertaining thereto and any recommendation of the County Planning Commission thereon to the Batavia Township Board of Trustees.

3. Consideration of PD Petition by Batavia Township Board of Trustees

- a. The Batavia Township Board of Trustees shall, upon receipt of such recommendation set a time for a public hearing on such proposed amendment, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the Township Zoning Commission. Notice of such public hearing shall be given by the Board by publication in one or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing.

- b. The Batavia Township Board of Trustees shall, within forty-five (45) days after the public hearing, approve, approve with modifications, or deny the petition for PD Preliminary Development Plan.
4. At the request of the applicant, the Zoning Commission or Batavia Township Board of Trustees may grant an extension in time limits required herein.
5. If land subdivision is involved, the development plans must satisfy the requirements of the Clermont County Subdivision Regulations. Formal subdivision approval must be granted by the County Planning Commission prior to the commencement of development of the PD.

D. Standards for Petition Review of PD Preliminary Development Plan

Using the information submitted by the petitioner and any findings of the County Planning Commission, the Zoning Commission shall review the application and report to the Batavia Township Board of Trustees their findings as to whether the petition meets the following standards.

1. The proposed development shall conform to the adopted Batavia Township Growth Policy Plan, or represent a land use policy, which, in the Zoning Commissions' opinion, is a logical and acceptable change in the adopted Growth Policy Plan;
2. The proposed development shall conform to the intent and all regulations, requirements and standards of a PD District;
3. The proposed development shall be adequately served by public facilities and services such as but not limited to streets, police and fire protection, drainage course, water and sanitary facilities, refuse disposal, and sidewalks; or that the persons or agencies responsible for the proposed development shall be able to properly provide such facilities and services;
4. Common open space, other common properties and facilities, individual properties, and all other elements of a PD are so planned that they will achieve a unified open space and recreation area system with open space and all other elements in appropriate locations, suitably related to each other, the site and surrounding lands;
5. The petitioner shall have made provision to assure that public and common areas will be or have been irrevocably committed for that purpose with notations of such commitment being denoted on the record plat. Provisions shall be made for financing of improvements shown on the plan for open space and other common areas, and that proper maintenance of such improvements is assured;



6. Traffic to, from, and within the site will not be hazardous or inconvenient to the project or to the neighborhood. In applying this standard, the Township shall consider, among other things: convenient routes for pedestrian traffic; relationship of the proposed project to main thoroughfares and street intersections; the construction of any roadway improvements necessary to mitigate the impact of the development, and the general character and intensity of the existing and potential development of the neighborhood;
7. The mix of housing unit types and densities, or in the case of non-residential development, the mix of uses and intensities, shall be acceptable in terms of compatibility, issues of privacy, and similar measures;
8. Where applicable, the convenience type retail or office development within the project shall be appropriately located within the PD such that the vehicular traffic generated by those uses does not affect adjacent neighborhoods or the residential portions of the development.
9. The Township shall determine, where applicable, that noise, odor, light, or other external effects which are connected with the proposed uses, will not adversely affect adjacent and neighboring lands and uses;
10. The proposed development shall create a minimum disturbance to natural features and land forms;
11. The property shall have adequate access to public streets. The plan shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable; and
12. Pedestrian circulation shall be provided within the site, and shall interconnect all use areas, where applicable. The pedestrian system shall provide for a logical extension of pedestrian ways outside the site and to the edges of the site, where applicable.

E. Application for Final Development Plan Requirements – Step #2

1. Petition Requirements

- a. A Final Development Plan shall be submitted for approval for each phase of a PD as delineated on the approved Preliminary Development Plan. Each Final Development Plan shall meet all applicable provisions of the Township Zoning Resolution, the submission requirements, and shall conform to the approved Preliminary Development Plan and to all conditions attached thereto.

- b. The Final Development Plan, in addition to customary engineering depiction of the area, monuments, etc., shall also include all of the information required by the submission requirements and instructions for Final Development Plans;
- c. The plans and drawings required by the submission requirements and instructions may be combined in any suitable and convenient manner so long as the data required is clearly indicated on one or more of said plats. A separate plat for each element is not necessary, but may be provided at the option of the applicant; and
- d. Sketches of the exteriors of several representative buildings in the project shall be provided as requested by the Township. It is intended that neither uniformity of architectural style nor unnecessary diversity thereof be a prerequisite to approval, but the developer is encouraged to exercise ingenuity in achieving a harmonious entity without undue attention to consistency. The purpose of this Section is to permit development flexibility greater than that permitted by other sections of this ordinance.

2. Consideration of Final Development Plan

- a. The Final Development Plan shall be submitted to the Township Zoning Administrator for review. The Zoning Administrator shall approve, modify or deny the Plan with any conditions that may be appropriate within sixty (60) days of the filing date, unless the applicant has agreed to an extension to the deadline.
- b. The Township may request review by the County Planning Commission and other agencies along with information regarding the project's submittals for subdivision review.

### **36.14 FINANCING RESPONSIBILITY**

No building permits shall be issued for construction within a PD District until required improvements are installed or performance bond posted in accordance with the same procedures as provided for by the Board of County Commissioners. Other requirements may also be established from time to time by the Board of County Commissioners.

### **36.15 PHASING AND DELAY IN CONSTRUCTION**

Development may be phased as delineated on the approved development plan, subject to the following requirements:

- A. A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services and open spaces and recreation facilities;
- B. The Township may require, as part of a Final Development Plan review of a phase of a PD, that land shown as open space on the approved area plan be held in reserve as part of the phase to be developed, in order to guarantee that density limits for the entire approved PD will not be exceeded when the subject phase is completed. Such reserved land may be included in the development of subsequent phases if the density limits will not be exceeded upon completion of that phase or if other land is similarly held in reserve; and
- C. Development shall be started and shall be diligently pursued in the manner and sequence shown on the approved plan with the timing of each subsequent phase following the submitted prospectus.
- D. As a condition for approval, the developer shall produce a prospectus for construction of said development. If the construction for said development has not started by the designated time, or if progress is not in conformity to the prospectus, the developer shall so state the cause in writing and request from the Township an extension of time. For the purpose of this chapter, "beginning of construction" means possession of a valid building permit for construction in the development.
- E. Failure of the developer to follow the plans approved by the Township for the Planned Development Project will be cause for permit approvals to be suspended until the development conforms to such plans, or revoked if such conformity is not established within six (6) months of a suspension for nonconformity. Upon revocation of a permit, the landowner and lessees shall be subject to the penalties provided by law and by this Resolution for land use not permitted.
- F. Expiration and Extension of Approval Period:
  - 1. In the event that a Final Development Plan has not been approved within eighteen (18) months of the Batavia Township Board of Trustees approval of the Preliminary Development Plan, the Preliminary Plan shall no longer be valid and shall expire, unless an extension is granted by the Township. A Zoning Certificate shall not be issued until a valid Preliminary Plan is approved in the same manner as the previous Preliminary Plan. Under this scenario the PD zoning designation of the property shall remain in effect awaiting a new Preliminary Development Plan, or until appropriate action is taken to amend the zoning of the property in accordance with Article 4.
  - 2. In the event that construction of the development is not started within two (2) years from the effective date of approval of the Final Development Plan by Batavia Township, the Final Plan shall no longer be valid and

shall expire, unless an extension is granted by the Township. A Zoning Certificate shall not be issued until a valid Final Plan is approved in the manner required by this Article.

3. In the event that a Final Plan is not approved within eighteen (18) months of the expiration of the Final Plan, the Preliminary Plan shall expire. A Zoning Certificate shall not be issued until a valid Preliminary Plan is approved in the manner required by this Article. Under this scenario the PD zoning designation of the property shall remain in effect awaiting a new Preliminary Development Plan, or until appropriate action is taken to amend the zoning of the property in accordance with Article 4.
4. To request an extension of a Preliminary Plan or Final Plan, the developer or property owner shall notify the Township in writing stating the cause of delay of construction and request from the Township an extension in time and a change in the prospectus. The Zoning Administrator, after reviewing the PD time extension request shall recommend to the Batavia Township Board of Trustees that either an extension of time be granted, that the plan be allowed to expire, or that the area of the PD be considered for zone map amendment to a district considered appropriate based upon the recommendations of the Batavia Township Growth Policy Plan and the development patterns generally occurring in the vicinity of the property. The Board of Trustees shall consider the recommendation of the Zoning Administrator, and either grant an extension of the PD, allow the plan to expire, or initiate the necessary process to amend the zoning of the property.

### **36.16 PERFORMANCE GUARANTEES**

Guarantees to assure completion of site improvements shall be provided in accordance with the requirements of the Batavia Township Zoning Resolution, or as otherwise required by the Township.

### **36.17 ADJUSTMENTS TO PLANNED DEVELOPMENTS**

- A. Major Changes. Major changes to an existing Planned Development, modifications from the Preliminary Development Plan, or revisions to a Final Development Plan for a tract of land in which development has not already begun or is not completed, in light of technical or engineering considerations, shall include the following. If the Zoning Administrator determines a proposed modification to be a major change, then the modification shall be reviewed in accordance with the procedures specified in Section 36.13 A. Step #1 Application for Planned Development.
  1. A significant change in density or intensity.

2. Changes in the outside boundaries of the Planned Development.
3. Significant modification of the type, design, location, or amount of land designated for a specific land use or open space.
4. Modifications in the internal street and thoroughfare locations or alignments which significantly impact traffic patterns or safety considerations.
4. A modification to the minimum setbacks or building sizes of the approved Preliminary Development Plan.

All changes not deemed to be major changes shall be considered minor changes.

- B. Minor Changes to an approved Preliminary Development Plan or Minor Changes to an approved Final Development Plan. All modifications from an approved Preliminary Development Plan or minor changes to an approved Final Development Plan not determined to be major changes as described above shall be subject to the approval procedures set forth in Section 36.13 B. Step #2 Final Development Plan.

### **36.18 REQUIRED CHARGES**

- A. The applicant shall be responsible for the expenses incurred by the Township in reviewing the PD Application, development plans or any modifications to the development plans. Such expenses may include items such as the cost of professional and review services, including expenses and legal fees in connection with reviewing the plan and preparing reports, the publication and mailing of public notice in connection therewith and any other reasonable expenses directly attributable thereon.
- B. At the time of submitting each PD application, Preliminary and Final, to the Zoning Administrator, the Zoning Administrator may require the applicant to make a deposit with the Township Clerk in the amount equal to the estimated cost of the Township's expense, or as specified on the application forms. When this deposit has been depleted to thirty-three (33 %), another deposit will be requested.
- C. Failure to pay the above costs and fees within thirty days of invoice will stop all processing of the PD District application.
- D. The Zoning Administrator shall not approve a Final Development Plan by signing the required record plat until all fees, bonds or other obligations have been paid by the applicant.