

**Phillipsburg Planning Commission**  
**945 2nd Street**  
**01/20/16**

1. 5:30 P.M. Call To Order
2. Roll Call
3. Changes To The Agenda
4. Reading & Approval Of Minutes Of January 12, 2016  
Documents: [PC011216.PDF](#)
5. Review Zoning Ordinance Article 24 - Parking & Loading Regulations  
Documents: [PC24.PDF](#)
6. Review Zoning Ordinance Article 14 - "PUD" Planned Unit Development District  
Documents: [PC14.PDF](#)
7. Reports
8. Adjourn

PHILLIPSBURG PLANNING COMMISSION  
Phillipsburg City Office,  
945 2<sup>nd</sup> Street  
1/12/2016

ATTENDANCE PRESENT: Commission members; Mike Erhart; Camie Schneider, Angie Wells; Charlene Juenemann; Larry Prewitt; Roger Jackson;

ABSENT: None

ALSO PRESENT: Tim Driggs, Public Works Supervisor; Mike James

CALL TO ORDER Roger Jackson called the meeting to order at 12:00 P.M.

AGENDA No additions/changes needed for the agenda.

MINUTES Minutes were presented for approval. Mike James attended both meeting was the only change to minutes. Motion by Wells to accept changes to the minutes and approve minutes. Second by Prewitt. Voting Aye: ALL  
Opposed: NONE

ZONING  
REVIEW

Per Driggs request Commission reviewed article 24 Parking and Loading Regulations. Discussion was mainly on section 1.1 off street parking. Driggs reported that it had been earlier misreported that 6-10 properties might be affected. Driggs explained that this would affect many more properties than he originally expected. Driggs provide photographs of several different locations and situations for review. Driggs also discussed the enforcement of the ordinance and that it has up to \$500 a day fine. There have been a couple complaints issued to the City Office. Consensus was to table discussion and Planning Commission would review and give suggestion at regular meeting on January 20<sup>th</sup>

Article 14 will be for review at next meeting.

The next meeting will be January 20, 2016 at 5:30 pm.

ADJOURN The meeting was adjourned at 1:00.

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Charlene Juenemann, Secretary

**ARTICLE XXIV**

**PARKING AND LOADING REGULATIONS**

**SECTION 1. REQUIREMENTS:** Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by fifty (50) percent or more, accessory off-street parking and/or loading spaces shall be provided as required by the following schedule, except that these requirements shall not apply in the “C – 1” Commercial District.

**SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS**

<b>Structures and Uses</b>	<b>Minimum Off-Street Parking Regulations</b>	<b>Minimum Off-Street Loading Requirements</b>
Adult Uses	2 space per two seats or seating spaces, or 1 space per 100 square feet of floor space, whichever is greater.	1 space per establishment
Bed and Breakfast Inns	1 parking space per rental unit	None required
Bowling Centers	5 spaces per lane plus required spaces for other uses in association	1 space per establishment
Churches, Synagogues, & Temples	1 space per 4 seats in main unit of worship	None required
Drive-up Facilities: Bank Teller Windows, Fast Food pick-up, and similar facilities	60 feet of waiting space ahead of facility (1 space is 20 feet)	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 spaces per establishment
Education Uses, Adult Day Care and Day Care, and Primary Schools	Parking spaces equal to 20% of capacity in students or persons served	2 spaces per structure
Educational Uses, All Other	Parking spaces equal to 40% of capacity in students	2 spaces per structure
Funeral Homes and Chapels	8 spaces per reposing room plus 1 space per 4 seats in chapel	2 spaces per establishment
Home Occupations	2 spaces in addition to those required for the dwelling	None required
Hospitals	1 space per 2 beds plus 1 per each employee	3 spaces per structure

(continued from page 103)

<b>Structures and Uses</b>	<b>Minimum Off-Street Parking Regulations</b>	<b>Minimum Off-Street Loading Requirements</b>
Hotels	1 space per rental unit	1 space per establishment
Indoor Recreation Centers: Fitness Clubs, Arcades, Skating Rinks, Bingo Parlors, and similar facilities	1 space per 125 square feet of gross floor area	1 space per establishment
Industrial Uses	1 space per 2 employees on largest shift	2 spaces per establishment
Libraries	1 space per 500 square feet of floor area	1 space per structure
Lodging & Boarding Houses	1 space per 2 rental units	None required
Medical Clinics	5 spaces per staff doctor or dentist	None required
Manufactured Home Park	2 spaces per dwelling unit	None required
Motels	1 space per rental unit	None required
Offices	1 space per 250 SF of gross floor area	None required
Private Clubs & Lodges	1 space per 200 square feet of floor area	1 space per establishment
Residential Structures (Multi-family)	2 spaces per dwelling unit	None required
Residential Structures (Single-Family)	2 spaces per dwelling unit	None required
Retail Sales Establishments	1 space per 200 square feet gross floor area	1 space per establishment
Roadside Stands	4 spaces per establishment	None required
Convalescent & Rest Home Services	1 space per 3 beds, plus 1 space per employee	1 space per establishment
Service Establishments	1 space per 200 square feet gross floor area	1 space per establishment
Theaters, Auditoriums, & Places of Assembly	1 space per 4 people in designed capacity	1 space per establishment

(continued from page 104)

<b>Structures and Uses</b>	<b>Minimum Off-Street Parking Regulations</b>	<b>Minimum Off-Street Loading Requirements</b>
Veterinary Establishments	3 spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 space per 2 employees	2 spaces per establishment
1.	Off-street parking lots for single family dwellings shall not be located in any required front yard area.	
2.	Off-street parking lots for multiple-family dwellings, home occupations, schools, churches and similar places of public assembly, hospitals, nursing homes, boarding and lodging houses, dormitories, or fraternity or sorority houses may be located in any required front yard area.	
3.	Off-street parking spaces for uses required in the, “C – 3”, “I – 1”, and “I – 2” Districts shall be located in back of the required front yard line and shall be on the same lot as the building they serve.	
4.	Exterior Storage:	
a.	All-weather, dust-free surfacing of areas for exterior storage of business vehicles, equipment, and materials is not required.	
b.	Exterior storage of business vehicles, equipment, and materials shall not occur upon required off-street parking.	

**SECTION 2. GENERAL REQUIREMENTS:**

1. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Use of property in violation hereof shall be a violation of this Ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.
2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Governing Body, after a report and recommendation from the Planning Commission, based upon the requirements of comparable uses listed.
3. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

4. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City Official designated as the Building Inspector in the form of deeds, leases or contracts to establish the joint use.
5. Off-street parking spaces for a dwelling shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.
6. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting business or use.
7. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:
  - a. Delineation of individual parking and loading spaces.
  - b. Circulation area necessary to serve spaces.
  - c. Access to streets and property to be served.
  - d. Curb cuts.
  - e. Dimensions, continuity and substance of screening.
  - f. Grading, drainage, surfacing and sub-grading details.
  - g. Delineation of obstacles to parking and circulation in finished parking area.
  - h. Specifications as to signs and bumper guards.
  - i. Other pertinent details.
8. Design requirements for parking lots.
  - a. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.

- b. Except for parking to serve residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sign obscuring fence of not less than five (5) feet nor more than six (6) feet in height except where vision clearance is required.
  - c. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.
  - d. Parking spaces along the outer boundaries of a parking lot located adjacent to an arterial street shall be contained by a curb at least four inches high and set back a minimum of four (4) feet from the property line or by a bumper rail.
  - e. Access aisles shall be of sufficient width for all vehicle turning and maneuvering.
  - f. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than thirty (30) feet in width and shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives. In the case of a corner lot, service drives shall be located not closer than thirty (30) feet to the intersecting street line. Service entrance drives shall be located no closer than ten (10) feet to a side lot line, except that a common service drive or two (2) adjacent properties with width not exceeding thirty (30) feet may be provided at the common lot line.
  - g. Service drives shall have a minimum vision clearance are formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining the lines through points thirty (30) feet from their intersection.
9. Completion time for parking lots. Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the City Official designated as the Building Inspector.

**SECTION 3. MAINTENANCE:** No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities. All parking lot surfaces shall be maintained with a smooth, dust-free surface.

**SECTION 4. PERFORMANCE:** In lieu of construction of the required parking lot, the Governing Body of the City may accept a corporate surety bond, cashier's check, escrow account, or other security of a type and in an amount approved by the Governing Body. Such security shall be conditioned upon the actual completion of such work or improvement within the specified time, and shall be enforceable by the Governing Body by all equitable means.

**SECTION 5. APPLICATION:** This Article shall not apply to uses existing as of the date of adoption of this Ordinance.

**ARTICLE XIV**

**“PUD” PLANNED UNIT DEVELOPMENT DISTRICT**

**SECTION 1. INTENT.** The intent of the Planned Unit Development District is to encourage innovation in residential, commercial and industrial development by greater variety in type, design, and layout of buildings; to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land; and to provide a procedure which relates the type, design, and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

The “PUD” District in this ordinance is an overlay zone which may be used in conjunction with any of the standard residential, commercial or industrial zones. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met. A development plan shall be submitted by each applicant for “PUD” zoning in accordance with the provisions and conditions that follow.

**SECTION 2. PERMITTED USES.** All uses, however, such uses must be approved as shown on the development plan and as specified in the regulations.

**SECTION 3. GENERAL PROVISIONS.**

1. The Planning Commission shall make a report to the Governing Body setting forth its reasons for recommendation of approval or denial of the application, along with specific evidence and facts showing that the proposed Planned Unit Development meets or does not meet the following conditions:
  - a. Said Planned Unit Development shall be in general conformity with the provisions of the adopted comprehensive plan.
  - b. Said Planned Unit Development shall not have a substantially adverse effect on the development of the neighboring area.
2. The Planned Unit Development District may be established exclusively for residential, commercial or industrial development or any combination of those types of development.
3. The minimum size allowed for a Planned Unit Development shall be as follows:

Residential	2 acres
Commercial	3 acres
Industrial	5 acres

Any “PUD” which has combined two or more types of use into a single plan shall have a minimum allowable size for the “PUD” equal to the sum of the minimum land areas required for each of the two or more types contained therein.

4. Height, bulk and setback requirements may be varied so as to promote an efficient and creative “PUD”.

**SECTION 4. STANDARDS AND CONDITIONS FOR PLANNED UNIT DEVELOPMENT.**

1. Upon recommendation of the Planning Commission the Governing Body may from time to time adopt general policies or specific rules and regulations for Planned Unit Developments and place said policies or rules and regulations of public record in the office of the Zoning Administrator; provided said policies and/or rules and regulations are not inconsistent with the adopted standards and conditions; and provided that no policies, rules or regulations shall be revised or added to, so as to be applicable to a specific proposal for a Planned Unit Development after an application for preliminary approval of a specific development plan has been filed.
2. A Planned Unit Development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design, and location of buildings, the density or intensity of use, open space, public facilities and the development by geographic division of the site.
  - a. The applicant shall satisfy the Planning Commission and the Governing Body that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of 18 months following approval of a final plan by the Governing Body, and a minimum of fifty percent (50%) of the total planned construction shall be completed within a period of three (3) years following such approval or the approval of the plan. The period of time established for the completion of the development may be modified from time to time by the Governing Body upon the showing of good cause by the developer.
  - b. The applicant may designate divisible geographic sections of the entire parcel to be developed as a unit, and shall, in such case, specify reasonable periods within which developments of each such unit must be commenced. In the case of residential Planned Unit Developments, the Governing Body may permit in each unit deviations from the number of dwelling units per acre established for the entire planned development, provided such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre authorized for the entire planned development is not affected.

- c. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees as may be determined by the Planning Commission and approved by the Governing Body, to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- d. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development. If it is determined that traffic control signals are required to prevent traffic hazards or congestion in adjacent streets, the control signals shall be provided at the developer's expense.
- e. The development shall not impose an undue burden on public services and facilities, such as water and sewer systems and fire and police protection.
- f. The entire tract or parcel of land to be submitted for Planned Unit Development shall be held in single ownership or control, or if there are two or more owners, the application for such Planned Unit Development shall be filed jointly.
- g. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Planned Unit Development not used for structures, parking and loading areas, or access-ways shall be landscaped or otherwise improved.
- h. Off-street parking and loading shall be provided in accordance with Article XXIV.
- i. When a commercial or industrial use within a Planned Unit Development district abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high and having a visual density of not less than ninety (90%) percent per square foot, shall be provided adjacent to any adjoining residential district except where the commercial or industrial development is separated from the residential zone by a street right-of-way. A ten (10) foot wide landscape buffer which shall consist of deciduous trees and shrubs and evergreens located along the property line which shall be maintained by the owner or owners of the property in the Planned Unit Development district, may be substituted for the solid or semi-solid fence when approved by the City.
- j. All commercial and industrial buildings shall set back not less than forty-five (45) feet from the right-of-way of any street and twenty (20) feet from any district boundary line that does not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required by the Governing Body, when recommended by the Planning Commission for protection of health, safety, and general welfare.

k. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel and of the total development for each type of Planned Unit Development:

Residential	40% maximum
Commercial	35% maximum
Industrial	35% maximum

- l. A minimum of thirty (30%) percent of the net area of the part of Planned Unit Development reserved for residential development shall be provided for open space as defined by these regulations. At least one-half (1/2) of this open space shall be provided for the leisure and recreational use of all "PUD" residents and maintained by owners of property in the development as through a homeowner's association in the case of a townhouse or a residential subdivision. The common open space shall be developed for appropriate recreational facilities and a minimum of fifty (50%) percent of the proposed recreational facilities shall be constructed prior to the development of one-half (1/2) of the project, and all recreational facilities shall be constructed by the time the project is seventy-five (75%) percent developed.
- m. The "PUD" shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation and maintenance, and to insure that remedial measures will be available to the Governing body if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the Planned Unit Development or of the entire community.
- n. Modifications of the zoning or other regulations that would otherwise be applicable to the site may be permitted, providing the design of the Planned Unit Development and the amenities incorporated in it are not inconsistent with the interest of the public generally.
- o. No residential use shall have direct access onto an arterial street.
- p. All commercial or industrial areas must have access to a collector or arterial street, however, no individual commercial or industrial use may have direct access onto collector or arterial streets, unless deemed necessary by the Planning Commission and approved by the Governing Body.
- q. Sidewalks shall be built to city specifications along all public and private streets, however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrians access between each use in the Planned Unit Development.
- r. Consideration shall be given for the provision of bicycle traffic along collector and arterial streets or along the approved pedestrian-sidewalk system.

**SECTION 5. APPLICATION FOR APPROVAL OF PRELIMINARY PLAN.**

1. An application for a Planned Unit Development shall be handled in the same manner prescribed for amending the zoning ordinance. The same requirements for notice, advertisement of public hearing, protests and adoption shall be required as in conventional zoning.
2. The applicant shall prepare and submit twenty (20) copies of the preliminary development plan for review and recommendation by the Planning Commission, which said plan shall include:
  - a. A site plan showing:
    - (1) Contours at intervals of two (2) feet.
    - (2) General location, size and use of all proposed structures in conformance with the yard requirements; or designation of individual lots if such lots are proposed to be sold to individual owners.
    - (3) All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas.
    - (4) All streets adjoining subject property and the width of the existing right-of-way.
    - (5) Areas set aside for public and private open space with the type of recreational facilities planned for each area indicated.
    - (6) Designation of individual parcels if the proposed development is to be set up in separate construction phases.
    - (7) Location of required screening.
    - (8) Location of natural features such as ponds, tree clusters and rock outcropping.
    - (9) Existing development on adjacent properties within two hundred (200) feet.
  - b. The above described site plan shall also include a section designated as “General Provisions” and said section shall include the following items when said items are applicable.

- (1) Net area \_\_\_\_\_ square feet or \_\_\_\_\_ acres. (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one (1) parcel is proposed, designate net area by parcel as well as total net area.)
  - (2) Density shall not exceed \_\_\_\_\_ dwelling units per acre or a total of \_\_\_\_\_ dwelling units for the entire plan. No parcel or unit of the plan shall exceed a density of \_\_\_\_\_ units per acre for the individual parcel by more than twenty (20%) percent.
  - (3) Building coverage shall not exceed \_\_\_\_\_ of the net area of the Planned Unit Development by individual or total development.
  - (4) A minimum of \_\_\_\_\_ percent of the development plan shall be provided for common open space as defined by this regulation. (Note: Normally, this figure should be approximately fifty (50%) percent.)
  - (5) A minimum of fifty (50%) percent of the recreational facilities shall be constructed prior to the development of one-half (1/2) of the project and all recreational facilities shall be constructed by the time the project is seventy-five (75%) percent developed.
  - (6) If more than one (1) parcel is proposed, a statement relating to the sequence of development shall be included.
  - (7) Required number of off-street parking spaces: \_\_\_\_\_.
  - (8) Gross floor area proposed: \_\_\_\_\_ square feet. (Commercial “PUD” only)
  - (9) All proposed land uses shall be listed by parcel.
- c. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - d. The full legal description of the boundaries of the property or properties to be included in the Planned Unit Development.
  - e. A vicinity map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed Planned Unit Development.
  - f. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interest in the tract of land and the proposed development.

- g. When a Planned Unit Development includes provisions for a common open space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.
  - h. Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
  - i. In the case where a Planned Unit Development calls for construction in units over a period of years, a schedule showing the proposed item and sequence within which the applications for final approval of all sections of the Planned Unit Development are intended to be filed shall be submitted.
  - j. A written statement by the applicant shall be submitted setting forth the reasons why in his opinion the Planned Unit Development would be in the public interest and would be consistent with the intent of the Governing Body on Planned Unit Development.
3. Action by Planning Commission: The Planning Commission shall, within sixty (60) days after a preliminary Planned Unit Development is filed, hold a public hearing on said development after giving notice as required by statute for hearings on amendments. Said public hearing may be adjourned from time to time and within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the Governing Body and the applicant specific findings of fact with respect to the preliminary Planned Unit Development. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.
  4. Action by Governing Body: The Governing Body shall or shall not approve the preliminary development plan and authorize the submitting of the final development plan. If the Governing Body approves the preliminary plan, it shall pass an ordinance designating the tract with an overlay of Planned Unit Development and so order the official zoning map to be amended.
  5. Substantial or significant changes in the preliminary Planned Unit Development shall only be made after rehearing and re-approval as required for the initial approval of the preliminary plan.

**SECTION 6. FINAL PLAN APPROVAL.**

1. After approval of a preliminary plan, the applicant shall submit an application for final approval. Said final application may include the entire Planned Unit Development or may be for a unit or section thereof as set forth in the approval of the preliminary plan and shall include changes required in the approval of the

preliminary plan. The application shall include twenty (20) copies of such drawings, specifications, covenants, easements, conditions and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in the zoning regulations for Planned Unit Developments.

2. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification by the landowner of the plan as tentatively approved does not:
  - a. Vary the proposed gross residential density or intensity of use by more than five (5%) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area, or
  - b. Increase by more than ten (10%) percent the floor area proposed for non-residential use, nor
  - c. Increase by more than five (5%) percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
  - d. Substantially change the design of plan so as to significantly alter, as determined by the Planning Commission:
    - (1) Pedestrian or vehicular traffic flow.
    - (2) The arrangement of different land uses.
    - (3) The relation of open space to residential development.
    - (4) The proposed phasing of construction.
3. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications on location and design of streets or facilities for water, storm water, sanitary sewers, or other public facilities.

In the event a public hearing is not required for final approval and the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, the Planning Commission shall, within a reasonable period of time of such filing, recommend that such plan be given final approval and forward its recommendation to the Governing Body for its final approval.

4. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this article for original approval.

5. In the event that a plan or section thereof is given final approval and thereafter the land owner shall abandon said plan or section, he shall so notify the city thereof in writing. In the event the land owner shall fail to commence the Planned Unit Development within eighteen (18) months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the land owner.

**SECTION 7. RECORDING.** Any approved final plan shall be filed of record with the Register of Deeds.

**SECTION 8. ENFORCEMENT AND MODIFICATION OF PROVISIONS OF THE PLAN.** To further the mutual interest of the residents and owners of the Planned Unit Development and of the public in the preservation of the integrity of the plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement, or otherwise shall be subject to the following provisions.:

1. Enforcement by the Municipality: The provisions of the plan relating to:
  - a. The use of land and the use, bulk, and location of buildings and structures, and
  - b. The quality and location of common open space, and
  - c. The intensity of use or the density of residential units shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any owners or regulation otherwise granted the municipality by law.
2. Enforcement by the Residents and Owners: All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise may be enforced at law or equity by said residents and owners, acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the Planned Unit Development except as to those portions of the plan which have been finally approved and have been recorded.
3. Modifications of the Plan by the Municipality: All those provisions of the plan authorized to be enforced by the municipality under Paragraph 1 of this section may be modified, removed or released by the municipality (except grants or easements relating to the service or equipment of a public utility unless expressly consented to by the public utility), subject to the following conditions:

- a. No such modification, removal or release of the provisions of the plan by the municipality shall affect the rights of the residents and owners of the Planned Unit Development to maintain and enforce those provisions, at law or equity, as provided in Paragraph 2 of this section.
  - b. No modification, removal or release of the provisions of the plan by the municipality shall be permitted except upon a finding by the municipal authority, following a public hearing called and held in accordance with the provisions of this section, that the same is consistent with the efficient development and preservation of the entire Planned Unit Development, does not adversely affect either the enjoyment of land abutting upon or across a street from the Planned Unit Development or the public interest, and is not granted solely to confer a special benefit upon any person.
4. Modification by the Residents: Residents and owners of the Planned Unit Development may, to the extent and in the manner expressly authorized by the provision of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the municipality to enforce the provisions of the plan in accordance with the provisions of Paragraph 1 of this section.

**SECTION 9. AMENDMENTS.** A Planned Unit Development District ordinance or an approved preliminary or final development plan may be amended in the same manner prescribed in this article for approval of a preliminary or final plan. Application for amendment may be by the homeowner's association or fifty-one (51%) of the owners of the property within the "PUD".

**SECTION 10. PLATTING.** For un-platted tracts or tracts being re-platted, the approval of the preliminary Planned Unit Development shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations.