

## PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

Amended August 3, 2004

**Planned Unit Development District (PUD).** The intent of the Planned Unit Development, (hereinafter "PUD") regulations is to permit greater flexibility, and consequently, more creative and imaginative design for the development of residential and nonresidential areas than generally is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of land uses, a higher level of urban amenities, preservation of natural scenic qualities of open space, environmental protection, concurrent and adequate public facilities, timing phasing, and sequencing for the proposed development within the PUD, all contingent upon completion of its review process. In addition, reasonable assurance to the developer is intended regarding ultimate approval before expending complete design monies while also providing county officials with assurances that the project will retain the character envisioned and protect public health, safety and general welfare. *[Amended Ord. 08/03/04].*

**1.0 Objectives.** To carry out the above stated purpose, a PUD district must provide the following, as appropriate:

1.1 Nonresidential land uses, if any, which provide convenient service, employment and access yet do not conflict with residential uses.

1.2 Conservation of natural topographical and geological features with emphasis upon:

a. To conserve existing surface and sub-surface water resources. *[Amended Ord. 08/03/04].*

b. To preserve major trees and other significant natural environmental features. *[Amended Ord. 08/03/04].*

c. To prevent soil erosion. *[Amended Ord. 08/03/04].*

d. To protect surface and ground water and other environmental resources, including green spaces, significant habitat and land with exceptional scenic beauty. *[Added Ord. 08/03/04].*

1.3 An efficient network of streets and utilities appropriate to serve the land uses within the PUD district.

1.4 To ensure that adequate public facilities and services, identified in the policies of the County, are available to serve the PUD development as the demands for

those facilities and service are created. *[Amended Ord. 08/03/04].*

1.5 A Preliminary Development Plan to convey the overall concept and to guide and coordinate any phased development; a Final Development Plan providing substantially complete construction and engineering drawings.

1.6 To ensure the implementation of the policies and criteria contained in this Ordinance by providing the necessary prerequisites, authority, and criteria for the County to enter a Development Agreement with the Applicant that comprises specific conditions and contains an integrated development scheme for a particular phase or phases of development, and contains maps, diagrams and other appropriate materials by which the Applicant agrees to the conditions, construction and installation of off-site or on-site facilities consistent with the provisions of this Ordinance. *[Added Ord. 08/03/04].*

## **2.0 Utilization**

2.1 This district is to be utilized as a "floating zone" which shall mean that areas will not be pre-designated as planned unit development districts, but rather each such designation shall result from a specific and separate application for amendment to the zoning ordinance and map. Planned unit development districts are separate zoning districts and, subject to the provisions of Section 8.13 below, shall follow the same amendment procedures as other zoning districts and additionally those set forth in this Ordinance, the development standards and the land uses which are presented with the PUD application for amendment to the zoning ordinance and map shall, if approved, become the standards for the subject property and shall become a part of the zoning regulations for the subject property. For purposes of zoning compliance, a PUD district property shall be treated as one (1) lot or parcel. *[Amended Ord. 08/03/04].*

2.2 Previously approved developments of a nature substantially in accord with the intent of these regulations, may be rezoned to PUD status, and shall thereafter be subject to the regulations and requirements for such districts.

## **3.0 Types of PUDs & Permitted Uses**

The following types of Planned Unit Developments are authorized by these regulations:

3.1 Residential only.

3.2 Residential with other permitted uses.

3.3 Adequate sanitary sewer facilities shall be required for all developments with a density pattern or land use intensity not meeting the minimum requirements of the Carroll

County Health Department for septic tank approval.

3.4 The following uses shall be permitted within a PUD district if in conformance with specific and precise Preliminary and Final Development Plans pursuant to the procedural and regulatory provisions set forth in this ordinance:

a. Residential Uses: Residences may be a variety of housing types and ownership types. Single-family detached, attached single-family, cluster homes, two-family homes, town houses, and multi-family residential developments may be permitted. For purposes of this Ordinance, the following definitions shall apply:

(1) Multiple Family Residential Developments (also referred to as Multi-family Dwellings or Multifamily Structures). A building containing three or more dwelling units, including units that are located one over another. A multifamily dwelling is primarily used as rental housing and multifamily buildings include garden apartments and mid-rise apartment buildings (three or more stories). Access is through a common hall, although individual entrances can be provided and dwellings can be back to back, adjacent, and one on top of another. *[Added Ord. 08/03/04].*

(2) Condominium. A building, or group of buildings, in which dwelling units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis. A condominium is not usually used as rental housing. *[Added Ord. 08/03/04].*

(3) Town houses. A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. Town houses may have separate utilities such as heating systems, electric meters, hot water and so forth. *[Added Ord. 08/03/04].*

b. Office Uses: Office uses shall include those permitted in the Office/Institutional district. Such uses shall be designed with respect to their nature, development intensity and location so as to primarily serve the residents of the PUD. Office developments shall be designed and landscaped in a manner which is compatible with residential development and which provides for traffic flow or circulation that does not interfere with residential areas inside or outside of the PUD.

c. Commercial Uses: Commercial uses shall include those uses necessary or convenient for the enhancement of the value or utility of the PUD as authorized by the Board of Commissioners in its ordinance approving a PUD. Such uses shall be designed with respect to their nature, development intensity and location so as to primarily serve the residents of the PUD. Commercial development shall be designed and landscaped in a manner which is compatible with residential development and which provides for traffic flow or circulation that does not interfere with residential areas inside

or outside the PUD. No outside storage of materials or equipment shall be permitted in commercial areas in a PUD. *[Amended Ord. 08/03/04]*.

d. Light Industrial Uses: Industrial uses shall include those customarily considered light industrial. Industrial development within a PUD shall be designed and landscaped in a manner which is compatible with residential development and which provides for through traffic circulation that does not interfere with residential areas inside or outside the PUD. Industrial areas occupying more than three (3) acres shall be designed as an industrial park with covenants and restrictions concerning building appearance and landscaping. The following specific uses shall not be permitted in a PUD:

- (1) Armories.
- (2) Cold storage, ice plants and freezer lockers.
- (3) Garage and repair shops and automobile repair shops.

*[Amended Ord. 08/03/04]*.

- (4) Truck terminals
- (5) Landfills and junkyards
- (6) Slaughter houses

E. Other Uses: Public buildings, including churches and other places of worship, and recreation facilities for use of the residents of the PUD and their guests is permitted. The restrictions as to the use of these facilities shall be set forth in the covenants and restrictions for the PUD development or the portion thereof for whose use such facilities are intended. *[Amended Ord. 08/03/04]*.

#### **4.0 Dimensional Requirements**

The minimum acreage for a PUD shall be at least twenty-five (25) contiguous acres. The following development dimensions are permitted in a PUD district:

4.1 Minimum lot width at building setback line shall be as follows unless otherwise specified in the PUD approval : *[Amended Ord. 08/03/04]*.

- a. 60 feet for detached single-family lots.
- b. 20 feet for attached fee simple townhouse lots.
- c. 100 feet for multiple-family and Office/Institutional lots. *[Amended*

*Ord. 08/03/04]*.

d. 100 feet for commercial and industrial lots.

e. 200 feet for lots with a mixture of residential, office/institutional, commercial and industrial development.

4.2 Minimum front yard depth as measured from the right-of-way line of an adjoining roadway shall be as follows unless otherwise specified in the PUD approval: *[Amended Ord. 08/03/04]*.

a. 20 feet for single-family structures.

b. 40 feet for multiple-family structures.

c. 40 feet for office/institutional structures.

d. 40 feet for commercial structures.

e. 50 feet for industrial structures.

f. 50 feet for buildings with a mixture of residential, office/institutional, commercial and industrial development.

4.3 Minimum side yard distances shall be as follows unless otherwise specified in the PUD approval: *[Amended Ord. 08/03/04]*.

a. Single-family detached dwellings may have a zero side yard but must maintain at least 10 feet between buildings.

b. Multiple-family dwellings must be spaced at least 20 feet apart and a distance of at least 50 feet from a single-family dwelling. Stated distance from the single-family dwelling lot shall be based on the requirement of 50 feet of horizontal spacing for each 10 feet of height of the multiple-family structure.

c. *[Deleted Ord. 08/03/04]*.

d. Industrial structures must have a side yard of at least 100 feet unless adjacent to another industrial property. If the property joins a residential property, the distance of the side yard shall be determined based upon 50 feet of horizontal distance from the residential property line for each 10 feet of industrial structure height with a minimum distance of 100 feet.

e. Buildings with a mixture of residential, Office/Institutional, commercial, and/or industrial uses shall have a horizontal side yard distance based upon that specified for industrial structures. *[Amended Ord. 08/03/04]*.

4.4 Rear yard dimensions shall be determined in the same manner as specified in side yard dimensions except as follows or as otherwise specified in the PUD approval: *[Amended Ord. 08/03/04]*.

- a. Single-family residential buildings shall maintain a rear yard of at least 20 feet.
- b. Multiple-family residential buildings shall maintain a rear yard of at least 30 feet.

4.5 *[Deleted Ord. 08/03/04]*.

4.6 Minimum floor area shall be as follows unless otherwise specified in the PUD approval.: *[Amended Ord. 08/03/04]*.

- a. Single-family dwellings: 1000 square feet. *[Amended Ord. 08/03/04]*.
- b. Townhouses/Condominiums: 700 square feet. *[Added Ord. 08/03/04]*.
- c. Multiple-family dwellings shall vary based upon the following:
  - (1) Minimum size is 550 square feet/unit.
  - (2) Two bedroom dwellings shall have at least 900 square feet/unit.
  - (3) Each dwelling unit with over two bedrooms shall have at least 200 square feet of additional floor area for each bedroom over two.

## **5.0 Open Space and Density Requirements**

5.1 Open Space: A minimum of twenty-five percent (25%) of the total site acreage shall be preserved as common recreation and meaningful open space.. “Meaningful Open Space” shall include, without limitation, parks, pastures, meadows, green belts, buffers, forests, lakes, golf courses, walking trails and such other areas as are approved by the County in the PUD approval. Water bodies and land located within the 100-year floodplain may be used to partially fulfill open space requirements; calculations for such may not exceed fifty (50%) percent of the required open space. Parking areas, road right-of-ways, and minimum yards in spacings between dwellings may not be included in determining open space. Any and all open space lands shall be held in common ownership by the dwelling unit owners or in such other manner as the County provides in its ordinance approving the PUD so as to insure that it. continues to be maintained for its intended use as specified in the Final Development Plan. To insure that all common open space in the PUD will be used as intended, the necessary restrictions or covenants will be put in each deed unless otherwise specified in the PUD approval. Such deed restrictions

or covenants shall run with the land in order to protect both present and future property owners. The covenants and restrictions shall prohibit the reduction or sale of any common open space. *[Amended Ord. 08/03/04]*.

5.2 Density: Residential density shall be calculated in gross density units. Gross density shall be defined as the total number of dwelling units divided by the total site area, including proposed roads and right-of-ways, but excluding areas located within the 100-year floodplain. The maximum residential gross density shall be three and one-half (3.5) units per acre, with the exception of density bonuses as described in the following section.

5.3 Density Bonuses: Each item listed below is optional and the PUD may offer any combination of these amenities in order to earn density increases. A density bonus accumulation of up to twenty percent (20%) over the stated maximum density allowed by the previous section, will be awarded if any of the following items are provided as described. Following each item is its allowable maximum density bonus increase.

a. A basement is provided in each residential building, or the PUD will have a common underground storm shelter of sufficient capacity that is accessible to all residents. (2%)

b. Provision of improved recreational space such as:

(1) Swimming pool (1% for each 500 sq. ft of pool surface; 3% maximum)

(2) Tot lot or playground of at least 2,000 sq. ft (1% for each 1,000 sq. ft; 3% max.)

(3) Clubhouse (1% for each 1,000 sq. ft; 3% maximum)

(4) Standard tennis, handball, volleyball, basketball, or similar recreational facility (1% for each court or facility; 3% maximum)

c. Provision of sidewalks on all internal streets. (2%)

d. Preservation of natural features of the site such as lakes and woods as common open spaces and the provision of permanent access to and use of such natural features and amenities such as bike and pedestrian paths and benches. (1% for each 10,000 sq.ft. of amenity preserved; 5% maximum) This provision does not apply to natural features used to satisfy the open space requirement in Section 5 .1 *[Amended Ord. 08/03/04]*.

e. Provision of paved bicycle paths. (1% for each 5,000 linear ft; 3% maximum)

f. Creation of a permanent buffer area around any perennial stream shown on U.S.G.S. topographic maps. The buffer area must be at least 20 ft wide from each stream bank and contain no structures other than unpaved footpaths. (1% for each 1,000 linear ft of buffer; 3% maximum)

g. Preserving any archaeological or historic site judged to be of significant value by the Carroll County Historical Society. (3%)

h. Preserving in its natural state, any area demonstrated to be a habitat for any endangered, rare, or threatened species of plant or wildlife so designated by the State of Georgia or the federal government. (3%)

i. Dedication of land, acceptable to the County, for use as a school site, fire station, park site, or other public facility. Such site shall be suitable for the proposed use and shall be at least 2 acres in size. (3%)

5.4 The Director of Community Development shall have the authority to determine whether an item to be provided complies with the provisions of this section, and if it does so comply, to compute the amount of the density bonus to which the applicant is entitled under the provisions of this section. *[Amended Ord. 08/03/04]*.

## **6.0 Availability of Public Services**

6.1 Relation to Major Transportation Facilities: PUD districts shall be so located with respect to major streets and highways or other transportation facilities so as to provide direct access to such districts without creating undue traffic burdens along streets in residential neighborhoods outside such districts.

6.2 Relation to Utilities, Public Facilities: PUD districts shall be so located in relation to sanitary sewers, water lines, storm drainage systems, and other utility systems and installations that neither extension nor enlargement will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development in a form generally permitted in the area. Such districts shall be so located with respect to schools, parks, playgrounds, and other public facilities required so as to have access in the same degree as would development in a form generally permitted in the area.

6.3 However, the location of the PUD district may be approved if the developer will:

a. Provide private utilities, facilities or services approved by the public agencies which would normally provide such utilities, facilities or services as substituting on an equivalent basis, and assure their satisfactory continuing operation and maintenance permanently or until equivalent utilities, facilities or services are available,

or

b. Make provision acceptable to the County for off-setting any added net public cost or early commitment of public funds necessitated by such development.

6.4 In any computations of added net public costs, the difference in anticipated public installation, operation, and maintenance costs, and the difference in anticipated public revenue shall be given due consideration, among other pertinent factors. Costs for making such determinations, as may be required above, shall be paid by the applicants. The determinations shall be made by the County or experts acceptable to the County.

## **7.0 Development Standards**

7.1 All roads, sidewalks, sewer facilities, utilities and drainage shall be constructed according to the requirements of the Carroll County Subdivision Regulations and any other County Ordinances pertaining thereto. In the event of a conflict between this Ordinance and the Carroll County Subdivision Regulations or any other County Ordinances, the more stringent regulations shall apply, unless otherwise specified in the PUD approval. *[Amended Ord. 08/03/04].*

7.2 All community facilities (e.g., water and sewerage systems) proposed for dedication to the County must be acceptable by the County, as to the size, shape, construction, location, and shown by the applicant to be of benefit to the general public. Acceptance by the County, or other authorized entity, is entirely dependent on the discretion of the County. *[Amended Ord. 08/03/04].*

7.3 All utilities, e.g., electrical, telephone, etc., shall be underground, unless the Director of Community Development determines that underground utilities are not feasible. These utilities shall be provided in accordance with the rules, resolutions and/or regulations established by the appropriate governmental agency. *[Amended Ord. 08/03/04].*

7.4 Each dwelling unit or other permitted use shall be provided access by a public road, private vehicular way or commonly owned easement. Access through privately owned easements shall not be allowed. County vehicles shall be permitted access on all privately owned roads, easements and common open spaces to perform basic county services.

7.5 Each building or structure for business, trade or industry shall provide space for the loading and unloading of vehicles off the right-of-way of the street or public alley. Such space shall have access to an alley or if there is no alley, to a street. Such space shall have at least fourteen (14) feet of vertical clearance. Such space shall be arranged so that no vehicle is required to back onto a public street, road or highway in order to access or leave the premises.

7.6 Off street automobile parking or storage space shall be at least nine (9) feet wide and twenty (20) feet deep. Each space shall be arranged so that no vehicle is required to back onto a major or arterial street, road or highway in order to access or leave the premises. Off street automobile parking or storage space shall be provided for each permitted use in the following minimum quantities except that total parking spaces may be reduced by the Board pursuant to a parking study that considers the mix of uses and overlapping parking demands throughout the day: *[Amended Ord. 08/03/04]*.

- a. Residential: Two (2) spaces per dwelling unit.
- b. Retail business: One (1) space for each two-hundred (200) square feet of total floor area. *[Amended Ord. 08/03/04]*.
- c. Offices: One (1) space for each two-hundred (200) square feet of total floor area.
- d. Industrial: One (1) space for each two (2) employees at maximum employment on a single shift.
- e. Schools: One (1) space for each six (6) seats in the main assembly room.
- f. Restaurant, Theater, Church, or other similar establishment where the general public convenes: One (1) space for each four (4) seats provided and one (1) additional space for each two (2) employees.

## **8.0 Procedural and Regulatory Provisions**

8.1 General: To develop a PUD within the County, the property must be rezoned to a PUD designation. Rezoning shall be subject to approval of the Preliminary Development Plan by the County. No building permits shall be issued until the Final Development Plan for the particular development phase has been approved by the County and recorded, or the County has authorized early issuance of building permits through a development agreement or other means set forth under county ordinance. *[Amended Ord. 08/03/04]*.

8.2 Unified Ownership: An application for approval of a PUD may be filed by any person having an interest in the property to be included in the PUD. The PUD application shall be filed with written consent from all of the recorded owner(s) of the property included in the development and with written consent from all holder(s) of an equitable interest in such property. Such consent shall contain a statement that the applicant is authorized to represent the owner(s) in pursuit of a PUD application and that such owner(s) shall agree to be bound by the decision of the County in the event such application is approved. All of the land in a PUD shall be owned by an individual, by a corporation, or by a single legal

entity before approval of the Final Development Plan unless otherwise specified in the PUD approval or provided for in a Development Agreement. The owner shall be required to provide evidence of full ownership interest in the land, by legal title or the execution of a binding sales agreement before final approval of the Final Development Plan. *[Amended Ord. 08/03/04]*.

8.3 Pre-application Conference: Before submitting the Preliminary Development Plan application for approval as a PUD, the developer shall meet with the Director of Community Development, Health Department official, County Engineer and any other such personnel as may be deemed necessary to determine the feasibility and suitability of the application. This step is required so that the developer may obtain information and guidance from County officials before entering into any binding commitments or incurring substantial expenses of the site and plan preparation. *[Amended Ord. 08/03/04]*.

8.4 Preliminary Development Plan Application: A rezoning application and fifteen (15) copies of the Preliminary Development Plan, along with the fee established by the County, shall be submitted to the Director of Community Development by noon on the third Tuesday of the month to be considered the following month in a public hearing held by the Planning Commission. The Director of Community Development and appropriate staff shall review the application to determine its conformity with the Comprehensive Plan, and other County policies, and the requirements of this Ordinance. The Preliminary Development Plan application shall include, but is not limited to, the following: *[Amended Ord. 08/03/04]*.

- a. A written report explaining the type, nature, intent and characteristics of the proposed development.
- b. Area location or orientation map of the property.
- c. Proposed name or title of project and name of the engineer, architect or developer.
- d. Drawing of the site at a scale of 1" = 200' or larger, acreage in total tract, north arrow, and date, unless otherwise approved by the Director. *[Amended Ord. 08/03/04]*.
- e. Existing topography in ten foot contour intervals or less. Contours may be interpolated from U.S.G.S. quadrangle maps.
- f. Existing wooded areas, streams, lakes, 100-year flood plain, and any other physical conditions affecting the site.
- g. Existing historical assets located on the property.

- h. Proposed street and lot layout.
- i. Proposed buffers, and natural features such as surface drainage and open water.
- j. Delineation of proposed uses, including open space, and net acreage in each.
- k. Proposed density calculations, in units per acre, for residential uses.
- l. General location, square footage and height of proposed non-residential buildings.
- m. Delineation of specific areas designated for phased development and proposed dates for beginning and completing construction of each development phase or stage.
- n. Proposed amenities, such as schools, parks and recreational facilities.
- o. General statement indicating source of potable water and wastewater disposal method.
- p. Unless otherwise approved by the Director of Community Development, Legal description of the parcel(s) - full metes and bounds description rather than plat reference. *[Amended Ord. 08/03/04].*

8.5 Preliminary Development Plan - Planning Commission: Upon completion of a review of the Preliminary Development Plan and application, the Planning Commission shall recommend to the County the approval, approval subject to conditions, or disapproval of the Preliminary Development Plan application. The Planning Commission may table a application once, until its next regularly scheduled meeting. The Planning Commission may extend this time for a decision for good cause shown. The Planning Commission shall consider the review criteria established in this Ordinance when making its recommendations. *[Amended Ord. 08/03/04].*

8.6 Preliminary Development Plan - County: Upon receiving the recommendations of the Planning Commission, or if the Planning Commission makes no recommendation after completing its review, the County shall hold a public hearing to review the Preliminary Development Plan application. The County may table an application for up to forty-five (45) days from the date of the first County hearing on the application. The County may extend this time for a decision for good cause shown. The County shall approve, approve subject to conditions, or disapprove the Preliminary Development Plan application. PUDs having more than 1,000 acres, the Applicant shall specify a date, event, benchmark, or other criteria for the completion of each phase of construction, and if

appropriate said date, event, benchmark, or other criteria may be set forth in a Development Agreement . Approval of the Preliminary Development Plan application indicates approval of the PUD zoning, subject to the acceptance of the Final Development Plan. The decision of the County shall take into consideration the review criteria established in this Ordinance and that criteria set forth in Section 8.7. *[Amended Ord. 08/03/04]*.

8.7 Preliminary Development Plan - Review Criteria: The Planning Commission and the County shall consider, but not be limited to, those items listed in Ordinance 14.10 of the Zoning Ordinance (Standards for Considering Zoning Decisions) and the following criteria when reviewing the Preliminary Development Plan for a PUD: *[Amended Ord. 08/03/04]*.

a. Degree of consistency of the proposed PUD with the surrounding area in terms of character and density.

b. Provision for and adequacy of future public education and recreation facilities, public safety, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation.

c. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of open space.

d. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.

e. The benefits inherent in a PUD classification to the general public that justify the requested departure from standard land use requirements.

f. The conformity and compatibility of the proposed PUD with the Comprehensive Plan.

8.8 Development Agreements *[Section 8.8 Added Ord. 08/03/04]*.

a. In the event that, in the opinion of the Department, any one or more of the existing water, wastewater, storm water and/or road facilities are not adequate to service the proposed development at the County's level of service standards the Applicant and the County may enter into a Development Agreement, pursuant to which the Applicant shall agree to provide the necessary public facility or facilities, at the Applicant's sole cost and expense, to service the proposed development, in accordance with the provisions of this section. The Development Agreement shall provide that all such public facilities shall be constructed or bonded prior to the issuance of a building permit for all or any portion of the proposed development.

b. The County authorizes and delegates to the Chairman of the Board of Commissioners to authorization to enter into a development agreement with an Applicant pursuant to this Ordinance only if the Chairman finds that the proposed development which is the subject of the Ordinance meets all requirements of this Ordinance, the County zoning regulations, the County subdivision regulations, and all other applicable regulations. Further, the County hereby authorizes the Chairman of the Board of Commissioners to execute a development agreement (s) and otherwise to perform all acts necessary to deliver binding development agreements for the completion and installation of necessary public facility(s).

c. Contents of a Development Agreement.

(1) A development agreement shall be in form satisfactory to the County Attorney and shall, at a minimum, include the following:

(A) A legal description of the land subject to the agreement and the names of the legal and equitable owners;

(B) The duration of the agreement;

(C) A general description of the development, the development uses permitted on the land including proposed densities, and building intensities and height, and a description of the impacts and benefits of the development;

(D) A description of the public facilities that will service the development, including those that are to be dedicated, constructed or financed by the developer;

(E) The date construction of such new facilities will be completed and operation of such facilities will begin;

(F) A schedule to assure public facilities are available concurrent with impacts of the development;

(G) A description of any reservations or dedications of land for public purpose;

(H) A description of all local development permits approved or needed to be approved for the development of the land;

(I) A provision that all public facilities to be provided by the Applicant will be constructed or bonded prior to the issuance of a building permit for all or any portion of the proposed development; and

(J) Such other provisions as are determined by the County to be necessary for the public health, safety, or welfare.

(2) Phasing. A development agreement may provide that the entire development or any phase thereof be commenced or concluded within a specific period of time.

d. The Development Agreement is subject to the approval of the Board as part of the approval process of the conditional use permit required under this Ordinance. No conditional use permit shall be approved by the Board until the development agreement shall be executed by the owner of the property which is the subject of the development agreement. For the purposes of this Section 9, owner shall be deemed to include the lessee under a lease of land with a term of not less than 50 years. Within ten (10) days following the complete execution of a development agreement, the Applicant shall cause such development agreement to be recorded in the office of the clerk of the superior court of Carroll County.

8.9 Final Development Plan Procedure. Subject to the provisions of Section 8.13 each separate phase of development shall be in accordance with the approved Preliminary Development Plan and shall require a review process by the Director of Community Development and appropriate County staff. Two (2) copies of the Final Development Plan for each separate phase shall be submitted to the Director of Community Development. The Director of Community Development shall have thirty (30) days to determine if the Final Development Plan is in accordance with the approved preliminary Development Plan and all other ordinance requirements. The thirty (30) day review time may be extended by the Director for good cause shown. The Final Development Plan for each development phase shall conform to the amended O.C.G.A. Section 15-6-67 (a.k.a., "The Georgia Plat Act") and shall include, but not be limited to the following: *[Amended Ord. 08/03/04]*.

a. Area location or orientation map of the property.

b. Proposed name or title of project, phase number and name and certification of the engineer, architect or surveyor.

c. Unless otherwise approved by the Director of Community Development scale of 1" = 100' or larger, acreage in total tract, north arrow, and date. *[Amended Ord. 08/03/04]*.

d. Existing topography by a registered surveyor or aerial topography with control points set by a registered surveyor or by the company providing the aerial topography. The required contour interval shall be two (2) feet. *[Amended Ord. 08/03/04]*.

e. Name of all jurisdictions in which the development is located and all political boundaries which cross or form any property boundary line of the development

phase.

f. Sufficient data to readily determine and reproduce accurately on the ground the location, bearing, and length of every road and alley line, lot line, easement, boundary line, and building line whether curved or straight. This shall include the radius, point of tangency, and other data for curved property lines and curved roads, to an appropriate accuracy and in conformance with good surveying practice.

g. Names of owner of record of all adjoining land and all property boundaries, water courses, roads, easements, utilities and other such improvements, which cross or form any boundary line of the development phase.

h. Roads and alleys including their right-of-way width and name.

i. Lot lines, minimum building setback lines, and lot and block numbers.

j. All dimensions shall be to the nearest one-tenth (1/10) of a foot and all angles shall be to the nearest minute.

k. Location, dimension and purpose (e.g., water, gas, cable) of all easements.

l. Location of all buffers.

m. Number to identify each lot or site.

n. Show all watercourses, wetlands and expected limits of the 100 year flood plain.

o. Proposed topography including finish floor elevations and location of all retention and detention basins for stormwater control.

p. Location of existing adjoining property lines.

q. Area in each subdivided tract in square feet.

r. Final engineering drawings of all roads, water, sanitary sewer and storm drainage systems.

s. Density calculations, in units per acre, for residential uses.

t. Location, square footage and height of proposed non-residential buildings.

u. Space for signed certification shall be provided for approval or acceptance of:

(1) Director of Community Development; *[Amended Ord. 08/03/04]*.

(2) Health Department Director;

(3) Public Works Director;

(4) County Commission Chairman;

(5) Required legal documents (where applicable);

(6) Deed restrictions proposed by the developer to preserve the character of common open space and to establish compatible architectural and landscape design;

(7) Proposed bylaws of the property owner's association or nonprofit corporation;

(8) A title insurance policy, acceptable to the County, stating the status of the title of the site encompassed by the final development plan and all liens, encumbrances and defects, if any;

(9) A bill of sale conveying to the property owner's association, nonprofit corporation, or to Carroll County or some other authority all water and sewer lines, mains, lift stations and any other improvements. Acceptance by the County is entirely based on the discretion of the County; and *[Amended Ord. 08/03/04]*.

(10) Paid tax receipts from the proper taxing authority, indicating that current taxes on the proposed site have been paid in full.

8.10 Disapproval of Final Development Plan: In the event that the Final Development Plan is deemed in accordance with the Preliminary Development Plan but is not approved due to omissions of required items or ordinance violations, the Director of Community Development shall submit a written report to the developer itemizing such deficiencies. A set of revised plans may be submitted to the Director of Community Development at any time to re-start the thirty (30) day review process as described in the previous section. *[Amended Ord. 08/03/04]*.

8.11 A discrepancy exists if, in the opinion of the Director of Community Development, the Final Development Plan and the approved Preliminary Development Plan differ regarding: *[Amended Ord. 08/03/04]*.

- a. The residential density;
- b. The number of building stories or floor area;
- c. The amount, location or type of open space;
- d. Road locations or traffic routes;

8.12 The Final Development Plan will be deemed to be not in accordance with the Preliminary Development Plan Application and disapproved until such discrepancies are remedied by the developer on a revised set of Final Development plans or the developer obtains a PUD zoning status approving such conditions by filing a revised Preliminary Development Plan Application as described in Section 8.13 of this Ordinance. *[Amended Ord. 08/03/04]*.

8.13 Modifications to the Approved Final Development Plan: Modifications to the Approved Final Development Plan concerning any of the following, shall be not be permitted unless a PUD zoning status approving such conditions is obtained by filing a revised Preliminary Development Plan Application as described herein:

a. An increase in residential density; provided, however, that residential densities within the PUD may be changed upon approval by the Director of Community Development if such changes do not increase the overall residential density of the PUD in its entirety and the Director of Community Development determines that such changes will not reduce the levels of service for utilities, roads or fire protection below adopted standards. Note that the Director may require the applicant to provide additional studies to ensure that the proposed changes comply with this paragraph. *[Amended Ord. 08/03/04]*.

b. An increase in the number of building stories or floor area of multi-family or non-residential development; provided, however that the number of buildings, stores and floor area may be changed if the number of residential units or total floor area are not increased for the PUD in its entirety, and the Director of Community Development determines that such changes will not reduce the levels of service for utilities, roads or fire protection below adopted standards. The Director of Community Development may require the applicant to provide additional studies to ensure that the proposed changes comply with this paragraph. *[Amended Ord. 08/03/04]*.

c. A decrease in the amount, location or type of open space; provided, however, that the location and configuration of open space may be changed upon approval by the Director of Community Development if the Director determines that such change does not reduce the total amount of each type of open space or access to the open space by residents. This provision is not intended to assure that every resident will have the same access, but that the net effect of the change will not reduce access for residents as

a whole. *[Amended Ord. 08/03/04].*

d. A change in the location of roads or traffic routes; provided, however, that any alignment change may be made upon approval of the Director of Community Development and the Director of Public Works provided that such change does not reduce the levels of service for roads or fire protection below adopted standards and that such change does not reduce overall connectivity within the PUD. Note that the Director may require the applicant to provide additional studies to ensure that the proposed changes comply with this paragraph. *[Amended Ord. 08/03/04].*

8.14 The Director of Community Development shall be authorized to grant administrative variances from the approved Final Development Plan, where, in his opinion, the intent of this ordinance can be achieved and equal performance obtained. The authority to grant such variances shall be limited to the following requirements: *[Amended Ord. 08/03/04].*

a. Front yard or yard adjacent to public street: Variance not to exceed 10) feet. *[Amended Ord. 08/03/04].*

b. Side yard: Variance not to exceed five (5) feet.

c. Rear yard: Variance not to exceed ten (10) feet.

d. Buffer area: Variance not to exceed ten (10) feet.

e. Lot size: Variance not to exceed ten (10%) percent.

8.15 The Community Development Appeals Board shall hold public hearings for variance applications not listed in Section 8.13 of this Ordinance. The Community Development Appeals Board shall hold public hearings for contested administrative variance decisions permitted to be made by the Director of Community Development under this Ordinance and as described in Section 13.1 of the Zoning Ordinance. *[Amended Ord. 08/03/04].*

8.16 Bonding: Prior to beginning construction of each development phase of the PUD, the County shall require the developer to post a performance bond or letter of credit, both in form and amount acceptable to the County, guaranteeing that all public improvements and common open areas will be constructed according to the approved Final Development Plan. The performance bond shall have a minimum face value equal to the cost of constructing the required improvements. The letter of credit shall have a minimum value equal to the cost for constructing the required improvements plus fifty (50%) percent. *[Amended Ord. 08/03/04].*

**9.0 Vested Rights of The Developer.** Any applicant claiming entitlement to approval

to develop land under a PUD zoning designation on the basis of Vested Rights shall first submit an application for a Vested Rights Determination, in sufficient detail, to the County that sets forth the following grounds: *[Amended Ord. 08/03/04]*.

9.1 Claiming entitlement to vested rights shall be considered based upon the basis of common law vesting, equitable estoppel or contractual rights provided the Applicant proves by a preponderance of evidence that the owner or contract purchaser, acting in good faith reliance upon some act or omission of the County, has made a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right to develop or to continue the development of the property; *[Added Ord. 08/03/04]*.

9.2 Claiming entitlement on the basis of a pre-existing permit; *[Added Ord. 08/03/04]*.

9.3 Claiming entitlement on the basis of an actual phasing plan, for a non-vested first or subsequent phase pursuant to which the Applicant has proceeded in good faith, provided or made provision for required public improvements, has in good faith reasonably relied upon the phasing plan to his, her or its detriment and no approvals or permits have lapsed or been revoked; or *[Added Ord. 08/03/04]*.

9.4 Claiming entitlement to development approval on the basis of other vested rights principles under State or federal law *[Amended Ord. 08/03/04]*.

**10. Expiration of PUD Approval.** A PUD district shall be subject to review and rezoning based on changed conditions or a revised comprehensive plan in the event:

10.1 For a PUD having less than 1,000 acres: *[Amended Ord. 08/03/04]*.

a. Within one (1) year after approval of the Preliminary Development Plan, a Final Development Plan is not submitted to the Director of Community Development. The Director of Community Development, upon request and for good cause shown, may extend the one (1) year time period for submitting the Final Development Plan for a period not to exceed one (1) year. *[Amended Ord. 08/03/04]*.

b. A development phase of the PUD project is not built or under progressive and substantial construction operations before the expiration of the time limits agreed upon during approval of the Preliminary Development Plan.

10.2 For a PUD District having 1,000 acres or more: Within two (2) years after approval of the Preliminary Development Plan, a Final Development Plan is not submitted to the Director of Community Development for one (1) or more phases of the PUD or pursuant to the approved phasing plan and/or development agreement. *[Added Ord. 08/03/04]*.