

ARTICLE 12
P-D, PLANNED DEVELOPMENT DISTRICT

SECTION 12.01 PURPOSE

The purpose of the Planned Development District is to provide a means of developing those land areas within the Town considered appropriate for new residential or business use, or a satisfactory combination of these uses, in an economic and compatible manner, while encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of this Ordinance. In no case shall the regulations of this Article be so interpreted as to circumvent the protection and benefits of this Ordinance to the residents or occupants of such development or the residents or occupants of adjoining properties.

SECTION 12.02 PROCEDURE

The procedure for the establishment of, and approval for, development within a Planned Development District is a two-step process as described below:

A. The procedure for the establishment of a Planned Development District shall be as follows:

1. Pre-Application Conference

Before submission of a preliminary application for approval of a Planned Development District, the developer shall meet with the Town Planning Board to determine the feasibility and suitability of the application prior to entering into binding commitments or incurring substantial expenses of site and plan preparation.

2. Application Procedure

Application for designation of a Planned Development District shall be made to the Town Board and shall be accompanied by a non-refundable application fee to be set by the Town Board. The Town Board shall refer said application to the Planning Board within fifteen (15) days of its receipt. The applicant shall furnish such data as is called for under Section 12.03 (A), "Preliminary Plan" of this Article.

a. The Planning Board shall review such application. The Planning Board may not, in all cases, have the expertise to review the detailed design and construction drawings. In those instances, the Planning Board may confer with other local, county, state and federal agencies and/or private consultants to insure that review of those areas is completed. Any and all costs incurred by the Planning Board in the course of its review may be charged to the applicant.

- b. The Planning Board may require such changes in the preliminary plans that are to be found necessary to meet the requirements of this Section, to protect the established permitted uses in the vicinity, and to promote the orderly growth and sound development of the Town. In evaluating the proposal and in reaching its decision regarding the preliminary plans, the Planning Board shall consider and make findings regarding those considerations set forth under Section 12.04 (Development Considerations) of this Article.
- c. All applications for creation of a Planned Development District shall be referred to the Herkimer County Planning Board which may review and comment on the referral as in the case of any amendment to this Ordinance, within thirty (30) days.
- d. The Town Board shall be responsible for initiating the State Environmental Quality Review Act (SEQRA) process. The basic purpose of the State Environmental Quality Review Act (SEQRA) is to incorporate the consideration of environmental factors into the existing planning, review and decision making processes of state, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQRA requires that the lead agency (Town Board) determine the type of action being considered and whether the action they directly undertake, fund or approve may have a significant effect on the environment. If the agency determines that the action may have a significant effect on the environment, the agency may require the preparation of an Environmental Impact Statement (EIS) pursuant to SEQRA 6 NYCRR, Part 617, Section 617.1. The lead agency shall be responsible for ensuring compliance with SEQRA timetables, public hearing requirements and all other SEQRA regulations.
- e. The Planning Board shall report its findings and make its recommendations to the Town Board within forty-five (45) days. It may recommend approval, disapproval or conditional approval subject to modifications regarding the proposed Planned Development District. After the forty-five (45) days, if no action is taken, said proposed Planned Development District shall be considered approved.
- f. The Town Board shall consider the report and recommendations of the Planning Board, and all other comments, reviews and statements pertaining thereto and, if the Board chooses to pursue the creation of the proposed Planned Development District, shall hold a Public Hearing after public notice, as required by Article 20 (Ordinance Amendments) of this Ordinance.
- g. The Town Board may amend the Zoning Map to establish and define the type and boundaries of the Planned Development District, and in so doing may state specific conditions in addition to those provided by this Ordinance, further restricting the nature or design of the development. In

the event that the Planning Board recommends disapproval of the proposal, or recommends conditional approval subject to modifications with which the applicant is not willing to comply, the Town Board may amend the Zoning Map in accordance with the application only upon an affirmative vote of the majority of the members of the Town Board.

- h. Amendment of the Zoning Ordinance to create a Planned Development District shall not constitute authorization to develop in the District until the procedure for approval of development described below has been complied with.
- i. If the applicant does not proceed with the approval of development within an approved Planned Development District within a period of two (2) years, the Town Board shall have the authority to again amend the Zoning Map to restore the zoning designation for the district to the zoning classification that existed prior to the application, or as may otherwise be appropriate.

B. The procedure for the approval of development within an established Planned Development District shall be as follows:

- 1. Authorization to initiate development after a Planned Development District has been established shall require that the applicant submit to the Planning Board such data as are required under Section 12.03 (B), "Final Plan" of this Article.
- 2. No Permit shall be issued until the Planning Board has made a recommendation based on the development considerations as set forth under Section 12.04 of this Article and the Town Board has considered this recommendation and authorized issuance of a Permit by resolution. The Town Board may override the recommendation of the Planning Board in adopting its resolution to authorize or deny a Permit only by an affirmative vote of a majority of the voting members of the Town Board.
- 3. All conditions imposed by the Planning Board or Town Board including any the performance of which may be conditions precedent to the issuance of any Permit shall run with the land and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated Planned Development District.
- 4. If construction of the development in accordance with the approved plans and specifications has not begun within two (2) years after the date of the resolution authorizing issuance of the Permit(s), the Planning Board shall review the approved plan and may recommend to the Town Board that the Permit(s) previously issued be revoked. Upon resolution by the Town Board, such Permit(s) may be declared null and void, the approval shall be deemed revoked and vacated, and the Town Board shall have the authority to again amend the map to restore the zoning designation for the district to the zoning classification that existed prior to the application, or as may be otherwise appropriate.
- 5. All development in a Planned Development District shall proceed in accordance with the approved site plan for the development. Any changes to the approved

site plan shall be reviewed by the Zoning Enforcement Officer and, if deemed substantial, may require approval by the Planning Board.

SECTION 12.03 SUBMISSION REQUIREMENTS

The following required plans and data are to be submitted in accord with the procedures for the Planned Development District process:

- A. Preliminary Plan for consideration of the establishment of a Planned Development District.
 1. Site Plan - to be prepared at a minimum scale of 1"=100' (preferred scale of 1"=40'), unless otherwise approved by the Planning Board to include:
 - a. Title, scale, north arrow and date.
 - b. Location map showing location of proposed development or project in the Town, boundaries of the tract, contiguous properties and any zoning districts and easements.
 - c. Topographic data based on USGS or equivalent and other site characteristics including soils, drainage and tree cover.
 - d. Existing land use on, and immediately adjacent to, the parcel.
 - e. Proposed lot and/or building layout, including adequate means to identify each lot and block or group of buildings, and minimum set-back or building line.
 - f. Street layout, including right-of-way and improved surface widths and typical cross sections of proposed roadways. Traffic volumes and projected changes to the volume due to the plan, if requested or required by the Planning Board.
 - g. Location and description of utilities on and adjacent to the tract and proposed connection thereto, or alternative means of water supply, sewage disposal, electric, telephone and other service facilities.
 - h. Location, dimension and purpose of any easement.
 - i. Existing drainage ways and provision for collecting and discharging surface drainage and stormwater run-off.
 - j. Location, dimension and description of land or facilities to be dedicated or reserved for public use.
 - k. The location, size and design for all proposed signs.

- l. A landscaping plan, showing the location, size, type and quantity of proposed shrubs, trees and other live plant material.
- m. The location, direction, power and time of use for any proposed outdoor lighting.
- n. Elevations of all proposed principal and accessory structures.

2. Development Data

- a. Total acreage of tract or parcel.
- b. Proposed timetable or stages for sale or development.
- c. Type of project, i.e., sale of lots, buildings, rental, condominium, etc
- d. Existing and proposed utilities and service facilities, including feasibility data on sewer, water and storm water drainage.
- e. Proposed number of lots and typical lot-size or number of units and overall density are to be located on the site plan.
- f. Lineal feet of proposed streets, number of proposed parking spaces, acres in proposed parks, recreation or open-space areas or as required by the Planning Board.

3. Legal Data

- a. Application.
- b. Names and addresses of owner, developer and professional advisors.
- c. Required fee, if any.

B. Final Plan for consideration of development within a Planned Development District:

1. Site Plan - Scale to be same as for Preliminary Plan

- a. As required for Preliminary Plan.
- b. Tract Boundary lines, right-of-way lines, easements and individual lot lines with accurate dimensions, bearings, radii, arcs, and central angles of all curves and location and description of all monuments.
- c. Reference to adjoining platted land or names of owners of record of unplatted lands.
- d. Topographic data showing contours at a minimum of two (2) foot intervals related to USGS or other permanent bench mark where natural contours are to be changed; otherwise at five (5) foot intervals.
- e. All trees to be removed or within fifty (50) feet of any area where the natural contour is to be altered which are of eight (8) inch caliper or more as measured three (3) feet above ground level.

- f. Typical cross-sections of street, including pavement, shoulders, ditches, and walks and cross-sections of drainage easements, as necessary.
- g. Profiles of street center lines showing vertical and horizontal curve data, slope of tangents and elevations of street intersections and other critical points.
- h. Profiles of storm and sanitary sewers, if any, showing diameter of pipe, and distance between manholes and catch basins.

2. Development Data

- a. As required for Preliminary Plan.
- b. Detailed drawings and specifications for water supply, storm water disposal, sanitary sewage disposal and all other required site facilities, services or installations as required by the Planning Board.

3. Legal Data

- a. As required for Preliminary Plan.
- b. Certification of title showing that applicant is the landowner or holds a legitimate interest in the property.
- c. Certification by licensed land surveyor of survey and plat accuracy.
- d. Protective covenants in form for recording, including covenants governing the maintenance of unceded public space or reservations.
- e. Offers of cession dedicating street, easements, open space and other facilities.
- f. Approval by the State or County Health Department as applicable, of sewer and water facility drawings and proposals.
- g. Approval by the Department of Environmental Conservation, where applicable.
- h. Copies of agreements showing the manner in which areas reserved by the applicant are to be maintained.
- i. Certification by a licensed professional engineer, architect, licensed land surveyor and/or landscape architect as is appropriate, that required facilities have been designed to meet the minimum standards of this Ordinance or otherwise required by law.
- j. Any other data as may be required by the Planning Board or Town Board for the enforcement of this Ordinance, including an environmental impact

statement according to the guidelines of the National Environmental Policy Act of 1969.

- j. Performance bond to cover full cost of any improvements for which the Town will ultimately assume responsibility, as may be required by the Town Board.
 - k. Approvals by the New York State Department of Transportation and the Herkimer County Department of Highways, where applicable.
 - l. Approvals by the New York State Department of Transportation and the Herkimer County Department of Highways, where applicable.
- C. As-built drawings will be filed upon completion of any required underground improvements. No certified check or performance bond shall be released until the drawings and documents listed below have been filed with and approved by the Planning Board.
- 1. Facilities and improvements as located and constructed in accord with the Final Plan, certified to by a licensed land surveyor, professional engineer, architect, landscape architect and/or contractor, as is appropriate.
 - 2. All offers of cession, deeds, abstracts and easements for any street, sewer, water or other facilities as approved and certified to by the Town Attorney.

SECTION 12.04 DEVELOPMENT CONSIDERATIONS

The following considerations will be evaluated in the process of reviewing the Preliminary and Final Plans submitted under the Planned Development District process and the Town shall be satisfied in every instance that these factors are to be adequately handled or provided for in the proposed development:

- A. The proposal is consistent with this Zoning Ordinance and the purposes of the Planned Development District process.
- B. The proposal shall be consistent with the established character and adjoining uses of the neighborhood and shall provide all reasonable safeguards for the protection of this character and property values.
- C. The proposal shall be so located as to be efficiently served by the traffic ways, water supply, sewage disposal, refuse collection, school, and fire and police protection systems.
- D. In particular, the proposal shall provide adequately for the movement of vehicular traffic according to the following:
 - 1. It shall relate properly in terms of traffic volume, capacity and points of access and egress to the existing road system;

2. Internal roadways shall be designed and improved according to acceptable standards; and
3. Adequate off-street parking and, where appropriate, loading space shall be provided.

- E. The provisions for all utilities, including water, sanitary and storm sewer, electric, gas and telephone shall be satisfactory to the Town and according to acceptable standards.
- F. The location of principal and accessory buildings on the site in relation to that side, to one another and to adjoining uses shall be satisfactory and in accord with the recommendations of the Town.
- G. The type of construction, building facade, and bulk and height of all structures shall be appropriate to their function and adjoining structures in the neighborhood and in keeping with the existing standards set forth in this Ordinance or any other existing regulations.
- H. The proposal shall provide for such open space, recreation area, buffer areas and pedestrian access and circulation as is appropriate and to the satisfaction of the Town.
- I. The proposal shall include appropriate provisions for such signing, lighting, fencing and landscaping as the Town may require.
- J. No land or building in any Planned Development District shall be used or occupied in such a manner as to create any dangerous, injurious, noxious, or other hazard due to odor, fire, noise, explosion, vibration, smoke, dust dirt, or other form of air pollution, glare, electrical or other disturbance.

The determination of potentially dangerous or objectionable elements shall be made at locations as follows:

1. At the point of origin for fire and explosion hazards, for radioactivity and electrical disturbances, and for smoke and other forms of air pollution; and
2. At the property line for noise, vibration, glare, odors and other hazards or nuisances.

SCHEDULE A P-D, PLANNED DEVELOPMENT DISTRICT

Principal Permitted Uses	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width (Feet)	Maximum Lot Coverage	Maximum Building Height (Stories)	Maximum Building Height (Feet)	Minimum Front Yard (Feet)	Minimum Side Yards One/Both (Feet)	Minimum Rear Yard (Feet)
Residential, Commercial, Industrial and Recreational Uses (Refer to Procedures in Article 12)	10 Acres	*	*	*	*	*	*	*

* All bulk, coverage and setback requirements shall be determined in accordance with the procedures outlined in Article 12

SCHEDULE B P-D, PLANNED DEVELOPMENT DISTRICT

Accessory Structure	Maximum Area (Square Feet)	Maximum Height (Feet)	Minimum Front Yard (Feet)	Minimum Side Yards (Feet)	Minimum Rear Yard (Feet)
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* All bulk, coverage and setback requirements shall be determined in accordance with the procedures outlined in Article 12