

## **ARTICLE 6 - PLANNED UNIT DEVELOPMENT DISTRICT (PUD)**

### **6.1 Intent**

The purpose of a Planned Unit Development (PUD) is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities, and Town services; to preserve the natural, environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is required that a Planned Unit Development will offer three (3) or more of the following advantages:

- (1)** Implement the guiding principles and land use policies of the Land Use Plan; specifically reflect the policies of the Land Use Plan specific to the neighborhood in which the PUD is to be located; and the Town Future Land Use Map;
- (2)** Buffer land uses proposed for the PUD so as to minimize any adverse impact that new development may have on surrounding properties; additionally provide buffers and transitions of density within the PUD itself to distinguish between different land use areas;
- (3)** Enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces;
- (4)** Counteract urban monotony and congestion on streets;
- (5)** Promote architecture that is compatible with the surroundings;
- (6)** Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints of the site and surrounding area; and
- (7)** Provide a public benefit that would not occur without deviation from the General Use Districts (Article 4) standards of this Zoning Ordinance.

The following sections of this Article 6 will elaborate fully the regulations and permitting of a PUD. Briefly, the intent of a PUD is for a floating zone district with boundaries submitted by the applicant. Upon approval by the Town the PUD becomes a distinct PUD District (Section 6.7) which is a plan, a legal text ordinance document specifying the regulations, and a map serving as a visual representation. The general permitting process is to obtain Town approval for a concept plan and accompanying PUD narrative for a PUD District (Section 6.7). Upon PUD District approval by the Town Council the area will be shown on the Town zoning map and identified as a PUD District. Before development can begin in the PUD District a preliminary development plan or preliminary subdivision plat and a final development plan or final subdivision plat must be approved for each portion or phase of the PUD District pursuant to the requirements of this ordinance and the Navassa Subdivision Ordinance.

## 6.2 General Regulations

### (1) Permitted Uses and Development Standards

- (A) The permitted uses and development standards in a PUD are subject to the discretion and review of the Planning Board, and approval by the Town Council.
- (B) The permitted uses and development standards shall be determined in consideration of: the Land Use Plan and Future Land Use Map; all adopted plans and ordinances of the Town of Navassa; the existing zoning district (Article 4) designation of the area being rezoned to a PUD; the land uses contiguous to the area being rezoned to a PUD (Appendix 1); and the general development standards of this Ordinance.

### (2) Qualifying Standards

- (A) The area designated in the PUD map must be a tract of land under single ownership or control. Single control of property under multiple ownership may be accomplished by submitting written documentation that:
  - 1. States that all property owners agree to the common development of their properties and to be subject to the PUD District and accompanying concept plan;
  - 2. Designates one primary applicant who shall serve as the primary contact between the owners and the Town; and
  - 3. Certifies, with signatures by all property owners including representatives of all commonly held properties, agreement to single control of their property.
- (B) The minimum gross area required for a PUD is ten (10) acres. The minimum gross area may be waived by the Planning Board if it is demonstrated that granting such waiver is consistent with the district intent as specified in Section 6.1.
- (C) A PUD may be established in any zoning district (Article 4) except for the Conservation and Recreation (CR) zoning district.

## 6.3 General Standards

- (1) Any qualifying parcel may be rezoned to a PUD District after compliance with this Article, Planning Board review, and Town Council approval.
- (2) Dimensional Requirements (Section 4.3) and General District Requirements (Article 8) shall apply to a PUD unless alternate standards are deemed appropriate by the Planning Board and Town Council. Any lessening of the required standards of the Zoning Ordinance shall be directly linked to the intent of PUD (Section 6.1), as determined by the Planning Board and Town Council.

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- (3) The concept plan shall show the general location of parcel lines, proposed land use areas including open space, major site improvements and amenities, existing and proposed roads, and existing significant natural areas including wetlands, water bodies, and floodplains. The proposed acreage and residential density or commercial and mixed use square footage, where applicable, of proposed land use areas shall be indicated on the concept plan.
- (4) The PUD District shall indicate the land uses, development requirements, and other applicable governing specifications.

If the PUD District is silent on a particular land use, development requirement, or other specification, then the standards and pertinent regulations of the Zoning Ordinance shall apply.

The PUD may set land use, development requirements, or other specifications found in the Zoning Ordinance, however the following shall be addressed when considering such governing specifications:

- (A) General Use Zoning Districts (Article 4);
- (B) General District Requirements (Article 8); and
- (C) Additional Development Standards for Individual Uses (Article 9).

### 6.4 Origination of Proposals

Any property owner may propose a PUD in accordance with these procedures. A parcel proposed for a PUD is not required to be under single ownership; however, if not under single ownership, the multiple owners must all consent to the development of their individual properties (Section 6.2(2)(A)).

Any transfer of land within the PUD resulting in any change in ownership of any property within the development after an application has been filed shall not alter the applicability of the Zoning Ordinance.

A concept plan (Section 6.7) approved hereunder shall be binding upon the petitioner, their successors and assigns and shall limit and control the issuance and validity of all zoning permits within the PUD District.

### 6.5 Rules of Procedure

All language of this Article 6 is subject to the Planning Board rules of procedure, where not described otherwise herein. All applications that involve subdivision of a parcel shall also be subject to the subdivision procedures established by the Town Subdivision Ordinance, except where specifically identified in this Article 6 or in an approved PUD district and accompanying concept plan.

**6.6 Limitation of Revisions to the Zoning Ordinance**

Changes to the Zoning Ordinance that directly affect public health, safety, and development standards shall apply to any PUD even if such changes are adopted during the PUD build-out.

**6.7 Approval Process – PUD District and Concept Plan**

**(1) Purpose and Intent - PUD District and Concept Plan**

**(A) PUD District**

The purpose and intent of the PUD District is to answer the following:

1. Designate a parcel or parcels of real property;
2. Specify use or a range of uses permitted;
3. Specify development requirements;
4. Specify the plan documentation and supporting documentation that may be required; and
5. Specify any applicable limitations.

**(B) Concept Plan**

The purpose of a concept plan is to delineate the location of basic elements such as permissible land uses, vehicular and pedestrian traffic routes, drainage, perimeter buffer yards, residential and commercial densities, and other site planning elements.

**(2) Prerequisites - PUD District and Concept Plan**

**(A) Pre-Submittal Meeting**

Prior to submitting a PUD application, the petitioner shall meet with the planning staff to review the: zoning classification of the site; the Future Land Use Map designation of the site; the CAMA Land Use Plan; regulatory ordinances and materials; procedures; draft concept plan; and proposed use and development of the property.

The planning staff shall aid and advise the petitioner in preparing the application and supportive documents as necessary.

**(B) Technical Review Committee**

After the required pre-submittal meeting, and after the planning staff has received an application that is sufficiently complete, the Technical Review Committee will review and provide comments to the Planning Board and Town Council for consideration.

**(C) Neighborhood Meeting**

The petitioner shall conduct a neighborhood meeting prior to filing a petition to rezone a site to a Planned Unit Development. Notice of the neighborhood meeting shall be made to any known neighborhood association, community group, religious institution, or other civic organization operating within a one (1) mile radius of the boundaries of the proposed PUD. Such notice shall be made to the organizations and the planning staff at least seven (7) days in advance of the meeting. Planning staff may require additional neighborhood meetings if significant changes are made to a PUD proposal after the initial neighborhood meeting occurs. Planning staff shall also reserve the right to advertise all neighborhood meetings in order to better inform the public.

**(3) Applicability - PUD District and Concept Plan**

The approval process (Section 6.7) applies to a new PUD and or an amendment pursuant to (Section 6.7(10)) that would affect a formally submitted PUD application.

**(4) Application - PUD District and Concept Plan**

An application for a PUD shall not be considered complete until all information and documentation required by this Section 6.7(4) has been submitted and all meetings required by Section 6.7(2) have been completed. An application shall include, but not be limited to the following documents:

**(A) Application Form**

An application form as provided by the Town planning staff including the required application fee as shown on the adopted fee schedule.

**(B) PUD District**

A PUD District narrative shall be prepared and twelve (12) paper copies and one digital copy (in PDF format) shall be submitted to the planning department for review. The narrative document shall serve as the zoning text for the PUD District and shall include the following information:

**1. Project Description**

- a.** The project name;
- b.** An estimate of the total estimated residential population, commercial square footage, and mixed use square footage;
- c.** Description of Character: A written description explaining the character of the PUD. The description shall include a statement describing how the proposed project achieves:



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- b. Existing streets on and adjacent to the tract, including street name, right-of-way width, pavement width, and pedestrian and bicycle facilities.
  - c. Existing utilities on the tract.
  - d. Any land on the tract within the regulated floodplain, including a delineation of floodway and floodway fringe.
  - e. Streets and other major improvements planned by the public for future construction on or adjacent to the tract as indicated on officially adopted plans or other relevant documents of the Town of Navassa, Brunswick County, Wilmington MPO, Town of Leland, NCDOT, and the United States Federal Government.
- 4. Boundary lines and acreage of each proposed land use component and phase of the development.
  - 5. The maximum residential density of each proposed phase of the development.
  - 6. The maximum square footage of commercial, industrial or other non-residential land use for each proposed phase of the development.
  - 7. Conceptual location of roads, major site improvements, and public amenities.
  - 8. Location, acreage, use and description of open space areas, including clear indication whether such open space areas are intended to be offered for dedication to the public.
  - 9. Project phase lines, if applicable.
  - 10. Other conditions on the tract, including water courses, wetlands, surface features, steep and excessive slopes, existing structures and other significant features.

**(D) Supportive Information.**

- 1. Infrastructure Plan: Preliminary concepts and feasibility reports for roads, utilities, storm water management, sidewalks, and pedestrian and bicycle ways.
- 2. Traffic Impact Analysis: Although a traffic impact analysis is not required for the PUD District and accompanying concept plan rezoning petition to be approved by the Town Council, there shall be a statement provided in the PUD District narrative that states that a TIA shall be performed prior to the approval of a preliminary development plan or preliminary plat. The PUD narrative shall

also contain a statement requiring the developers to implement the recommendations and traffic improvements identified in the TIA. The TIA should be conducted according to the procedures and standards identified by the Wilmington Metropolitan Planning Organization (WMPO) and the North Carolina Department of Transportation (NCDOT) and shall evaluate the entire PUD. Additionally, the required TIA shall be a multi-modal transportation evaluation and shall consider pedestrian, bicycle, and automotive modes of transportation and the development's impact on the local transportation network.

3. Environmental Plan: Documentation of the location of significant natural areas and provisions for their protection, where applicable.
4. Architectural Character: Narrative, renderings, representative photographs, or other materials that illustrate the proposed architectural character within the PUD. Such material shall clearly depict the massing, scale and architectural detail of the proposed development.
5. Additional Information: Other additional information may be required by the planning staff to evaluate the application. The planning staff shall inform the applicant of any additional documents or data requirements after the pre-application conference.

**(E) Adjacent Property Owner Notification Materials.**

1. Two sets of stamped envelopes addressed to all property owners of property within 100 feet of the property to which the rezoning petition applies and within 100 feet of all other contiguous property owned by the property owner/petitioner and/or all land contained within the parcel(s) to which the rezoning petition applies.
2. A copy of the neighborhood meeting(s) sign-in sheet (Section 6.7 (2) A).

**(5) Planning Staff Review and Action - PUD District and Concept Plan**

The planning staff shall review the PUD District and accompanying concept plan and forward the results to the Planning Board for consideration with the planning staff report and other documents as may be pertinent. The complete PUD application shall be submitted to the Planning Department no less than forty-five (45) working days prior to the regularly scheduled Planning Board meeting at which time the application will be considered.

**(6) Planning Board Review and Action - PUD District and Concept Plan**

**(A) Decision**

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The Planning Board shall review the information forwarded by the planning staff and any other relevant information. The Planning Board shall have at least forty-five (45) days to make a recommendation concerning the PUD application before the Town Council may hold a public hearing on the PUD application. At a regularly scheduled meeting the Planning Board shall allow the applicant to present the development proposal and shall:

Forward the petition to the Town Council with:

1. A favorable recommendation that the application be approved as submitted;
2. A favorable recommendation that the application be approved with specified conditions, commitments, and/or changes to the PUD District and accompanying concept plan;
3. A negative recommendation that the application be denied; or
4. Continue the petition to a definite future meeting date for further consideration.

### **(B) Changes by Planning Board**

If the petitioner agrees in writing to proposed acceptable changes the Planning Board may vote favorably to recommend the PUD District and accompanying concept plan.

If the petitioner is unable to respond to proposed changes prior to the vote, then such motion and vote shall be in the alternative:

1. Either for favorable recommendation, contingent upon the petitioner's acceptance of the changes in writing within ten (10) days of the Planning Board's approval; or
2. In the alternative, if the petitioner fails to accept the changes in writing within said specified time, the Planning Board's motion and vote shall be to continue the application to the next Planning Board meeting.

The Planning Board shall permit the petitioner to comment upon changes to the PUD District and or concept plan; after a motion to approve with changes is made but prior to the vote; and the Planning Board may amend its motion accordingly.

### **(C) Revisions**

Following Planning Board approval, the petitioner shall submit a revised copy of the PUD District and accompanying concept plan that addresses the comments, concerns, and conditions of approval of the Planning Board.

**(7) Town Council Review and Action - PUD District and Concept Plan**

**(A) Action**

The Town Council shall vote on the PUD District and accompanying concept plan after the Planning Board certifies the proposal. The Town Council may adopt or reject the proposal, may also impose reasonable conditions, such as condition the issuance of a certificate of zoning compliance on bonds or certain guarantees, and allow or require the owner of real property to make written commitments. Adoption of the proposal is a zoning map amendment and is subject to the amendment provisions of Section 16.7.

**(B) Effect of Approval**

1. When a PUD District and accompanying concept plan have been approved by the Town Council, the PUD shall become legally effective and the location shall be shown on the zoning map and properly recorded by the Zoning Administrator as an integral component of the PUD District regulations. The zoning map shall be amended to designate the site as a PUD zoning district.
2. Upon such amendment of the zoning map, the use and development of the site shall be governed by the PUD District and accompanying concept plan, and all other applicable town ordinances.
3. Approval of the rezoning and related concept plan shall establish the basic uses, densities, and intensities for the PUD District in conformity with the concept plan as approved, but the concept plan shall be conditioned upon approval of a final development plan or final subdivision plat, and shall not make permissible any of the uses, densities, or intensities as proposed until a final development plan or final subdivision plat is submitted and approved by the Planning Board for all or a portion of the area covered by the PUD District rezoning.
4. No building permit shall be issued in the PUD District until a preliminary development plan or preliminary plat for subdivisions and a final development plan or final subdivision plat is approved for each portion or individual phase of the PUD District pursuant to the requirements of this ordinance and the Navassa Subdivision Ordinance.

**(8) Review Considerations - PUD District and Concept Plan**

The Planning Board and Town Council shall consider the following items with a PUD District and accompanying concept plan. However, the following itemized list is not prioritized. Each item shall be considered individually as it applies to the PUD.

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- (A) The extent to which the proposed concept plan meets the requirements, standards, and stated purpose of this Article 6.
  - (B) The extent to which the proposed concept plan departs from the Zoning Ordinance provisions otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest.
  - (C) The extent to which the PUD meets the purposes of this Zoning Ordinance, the Land Use Plan, Future Land Use Map and any other adopted planning objectives of the Town.
  - (D) The physical design of the PUD and the extent to which it:
    - 1. Makes adequate provision for public services;
    - 2. Provides adequate control over vehicular traffic;
    - 3. Provides for and protects designated common open space; and
    - 4. Furthers the amenities of light and air, recreation and visual enjoyment.
  - (E) The relationship and compatibility of the proposed concept plan to the adjacent properties and neighborhood. Whether the concept plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.
  - (F) The desirability of the proposed concept plan to the Town's physical development, tax base and economic well-being.
  - (G) The proposal can be adequately served by existing or programmed public facilities and services.
  - (H) The proposal preserves significant ecological, natural, historical and architectural resources.
  - (I) The proposal will not be injurious to the public health, safety, and general welfare.
  - (J) The proposal is an effective and unified treatment of the development possibilities on the site.
- (9) Duration - PUD District and Concept Plan**

**(A) Abandonment**

The PUD District and accompanying concept plan shall be considered abandoned if, three (3) years after the approval by the Town Council, no

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final development plan or final subdivision plat (Section 6.8) approval has been granted for any section of the PUD. In such cases, the Planning Board shall notify the owner of the property. At a regularly scheduled meeting the Planning Board shall determine if the PUD District and accompanying concept plan should be extended for a period up to a maximum of two (2) years. If no extension is sought for the PUD, and the three (3) year period since Town Council approval has elapsed, the Planning Board may initiate a proposal to rezone the area designated as a PUD to an appropriate zoning district. Any such rezoning must follow the process provided in Section 16.7 of the Navassa Zoning Ordinance.

### **(B) Review**

If, fifteen (15) years after the approval of the PUD District and accompanying concept plan by the Town Council, final development plan or final subdivision plat approval has been granted for one or more sections of the PUD, but sections of the PUD remain without an approved final development plan or final subdivision plat (Section 6.8), the Planning Board may on its own initiative require the developer to provide a status report on the progress of the PUD District. The status report shall be submitted to the Planning Board every six (6) months and shall describe the anticipated construction schedule of the PUD, any impediments to continued development of the PUD, and a justification for the delay in completing the PUD.

## **(10) Changes or Amendments – PUD District and Concept Plan**

### **(A) PUD District**

An amendment to an approved PUD District narrative shall follow the text amendment procedure pursuant to Section 16.7 of Article 16 of the Town's Zoning Ordinance.

### **(B) Concept Plan**

A concept plan is a conceptual and general rendering of a proposed development conforming to the PUD District. A final development plan or final subdivision plat may deviate from the approved concept plan in some respects without necessitating an amendment to the concept plan.

However, any deviation from an approved concept plan that alters the intent of the PUD shall be subject to the procedure for approval of a new concept plan (Section 6.7). The Planning Board may require that an application for concept plan amendment encompass the entire PUD.

Deviations that require a concept plan amendment include, but are not limited to, the following:

1. Increases in the number of residential housing units;

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2. Any intensification of approved housing types, for example changing single-family homes to multifamily apartments;
3. More than a one percent (1%) reduction of proposed open space, unless the PUD District is providing additional open space than required by this article. In situations where the PUD District is providing additional open space than required by this article, more than a three percent (3%) reduction of proposed open space shall require an amendment to the concept plan. In no situations shall a PUD District provide less open space than required by this article;
4. Changes in functional uses of open space, where such change constitutes more than a five percent (5%) decrease in the amount of active open space compared to passive open space;
5. Substantial changes in the general location of roads. When determining whether or not a proposed change in the location of a road will require a concept plan amendment the Planning Board shall consider the impact the proposed change has on the following:
  - a. Traffic patterns and congestion within the PUD and on adjacent roadways
  - b. Safety of vehicles, pedestrians, and cyclists
  - c. Multimodal connectivity within the PUD

**6.8 Approval Process – Preliminary Development Plan or Preliminary Subdivision Plat**

**(1) Preliminary Development Plan and Preliminary Subdivision Plat Purpose and Intent**

**(A) Preliminary Development Plan**

The purpose of the preliminary development plan is to provide preliminary details about how a particular area or phase of the Planned Unit Development will be developed. The preliminary development plan is a site plan that shall meet the requirements of Article 16.2 of the Navassa Zoning Ordinance and shall show the proposed location of each building and improvement to be constructed and a designation of the specific internal use or range of uses for the building(s).

**(B) Preliminary Subdivision Plat**

The purpose of the preliminary subdivision plat is to ensure that all subdivisions that occur within the PUD substantially conform to the previously approved PUD District and accompanying concept plan. All subdivision approval shall follow the development review and approval process described in the town's Subdivision Ordinance, with exception of

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the review procedures described in this article. If specific development review procedures listed in this article conflict with the development review procedures listed in the Subdivision Ordinance, the development review procedures in this Article of the Zoning Ordinance shall take precedence.

If specific development standards on an approved PUD District and or accompanying concept plan conflict with the design standards required by the Subdivision Ordinance, the standards in the approved PUD District and accompanying concept plan shall take precedence.

### **(2) Preliminary Development Plan Prerequisites**

The preliminary development plan shall conform to the approved PUD District and accompanying concept plan.

### **(3) Preliminary Development Plan Applicability**

#### **(A) Effect of Approval**

No building permit shall be issued within a PUD District except in accordance with the approved final development plan or final subdivision plat for each portion or phase of the PUD District pursuant to the requirements of this ordinance and the Navassa Subdivision Ordinance. The final development plan or final subdivision plat must be approved and signed by the Zoning Administrator.

**(B)** No certificates of occupancy shall be issued until all site improvements for the applicable development phase are complete and approved by the appropriate agency or body.

### **(4) Preliminary Development Plan Application**

#### **(A) Application Deadline and Submittal Requirements**

The applicant shall submit ten (10) copies of the proposed preliminary development plan, prepared in accordance with the requirements of this ordinance, to the planning staff no less than twenty-five (25) working days prior to the regularly scheduled Planning Board meeting at which time the preliminary development plan will be reviewed. The applicant shall also submit any required application forms and fee and preliminary development plan submittal shall not be considered complete without receipt of required fees and completed application forms.

If land in the PUD is to be subdivided, the applicable land area or phase of the PUD District shall follow the development review and approval process described in the town's Subdivision Ordinance, with exception of the review procedures described in this article.

#### **(B) Supportive Documentation**

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The preliminary development plan application shall include, but not be limited to the following:

1. An accurate map exhibit of the entire phase for which approval is being requested.
2. An accurate map exhibit of each separate use area, including open space.
3. Proposed location of all buildings to be constructed and a designation of the specific use or range of uses for each building. Precise locations need not be shown for single-family residential buildings on individual lots, but plans shall show setback and other bulk constraints.
4. Design and precise location of all sidewalks, bicycle lanes, multiuse paths, streets, drives and parking areas, including construction details, center line elevations, pavement type, curbs, gutters, and culverts.
5. Location of all utility lines and easements.
6. A preliminary, detailed landscape plan, including size and species, installation specifications, identification of vegetation to be preserved and the measures to accomplish preservation, and conservation easements where required.
7. Tabulation on each separate land use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
8. Projected construction schedule.
9. Additional Information as may be required by the planning staff or Technical Review Committee to evaluate the preliminary development plan.

### **(5) Preliminary Development Plan - Planning Staff Review**

The planning staff shall submit a written review of the PUD preliminary development plan to the Planning Board no less than seven (7) days prior to the Planning Board meeting at which it is to be reviewed.

### **(6) Preliminary Development Plan – TRC Review**

#### **(A) Review**

1. Upon receipt of the complete preliminary plat application, the Subdivision Administrator shall distribute copies of the preliminary plat of the proposed major subdivision to various agencies representing the Technical Review Committee (TRC) for review of

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street design, erosion and sedimentation control, sewage disposal systems, water and sanitary sewer systems, stormwater management, public safety, and public services.

2. The Zoning Administrator and planning staff shall consult with members of the TRC to review the preliminary development plan. Following review, TRC members shall provide any findings and recommendations in writing to the Navassa Planning Department.
3. The Navassa planning staff shall forward the TRC findings and recommendations, along with the preliminary development plan, to the Planning Board for review and approval at least five (5) days prior to the Planning Board meeting.
4. If the TRC determines that the preliminary development plan is incomplete, the Zoning Administrator shall notify the applicant of the deficiencies in writing. The applicant may make the recommended changes and resubmit the revised preliminary development plan. Preliminary development plans shall not be forwarded to the Planning Board until all deficiencies have been corrected.

### **(7) Preliminary Development Plan Planning Board Review**

#### **(A) Review**

At a regularly scheduled or special called public meeting, the Planning Board shall review:

1. The written statement and supportive material submitted by the petitioner;
2. The previously approved PUD District, and accompanying PUD District narrative and supporting information;
3. The previously approved concept plan;
4. The proposed preliminary development plan;
5. Any commitments or conditions of approval attendant to prior approvals;
6. Any applicable section of the Zoning and Subdivision Ordinances;
7. Any written comments submitted by the planning staff, the Technical Review Committee, and/or Planning Board members;
8. Any applicable section of town adopted plans or ordinances; and
9. Additional information as may be required by the Planning Board to evaluate the application.

**(B) Revisions**

Following Planning Board review, the petitioner shall submit to the planning staff revised copies of the preliminary development plan that address any comments and concerns of the Planning Board.

**(8) Preliminary Development Plan - Planning Board Review and Action**

**(A) Decision**

**1. Planning Board Approval**

The Planning Board may permit or require the petitioner to make a written commitment, and may also impose reasonable conditions of approval.

**2. Preliminary Development Plan Minor Deviations from Approved Concept Plan**

If the Planning Board finds the preliminary development plan proposes minor deviations from the approved PUD District and accompanying concept plan that:

- a. do not require an amendment pursuant to (Section 6.7(10));
- b. do not change the concept or intent of the development;
- c. it may review and approve the preliminary development plan without public notice or a public hearing.

The Planning Board decision is subject to appeal under Section 6.8(6)(A)4 as shown below.

**3. Preliminary Development Plan Determination that Amendment is Required**

If the Planning Board determines that the preliminary development plan proposes changes that deviate substantially from the PUD District, and accompanying concept plan; an amendment will be required (Section 6.7(10)) or a revised preliminary development plan may be resubmitted for review.

If the petitioner disagrees with the Planning Board's determination, they may request that the Board of Adjustment review the Planning Board's decision.

The petitioner request must be submitted in writing to the planning staff not later than fourteen (14) days after the Planning Board's determination is made.

**4. Preliminary Development Plan Appeal to Board of Adjustment of Planning Board Decision**

Interested parties affected by the decision of the Planning Board upon review of a preliminary development plan may within fourteen (14) days of such decision request that the Board of Adjustment review the Planning Board decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required and conducted pursuant to Article 16 of the Zoning Ordinance.

**(B) Preliminary Development Plan Revisions**

Following Planning Board approval, the petitioner shall submit revised copies of the preliminary development plan that address the comments and concerns of the Planning Board.

**6.9 Construction Plan Review Procedures for Planned Unit Developments**

- (1)** Following Planning Board approval of the preliminary development plan, the developer shall submit four (4) sets of road, water, and sewer construction plans for approval by the town engineer, and by the applicable utility where applicable. Any costs incurred by the town for review of construction plans shall be paid by the applicant.
- (2)** If the preliminary development plan includes a new public road(s) or an extension of an existing road, road construction plans shall conform to the most current road standards for the Town of Navassa and NC Division of Highways.
- (3)** Following approval of all construction plans, the developer is authorized to proceed with the installation or arrangement of the required improvements and the preparation of a final development plan. Prior to approval of the final development plan, the developer shall have installed the improvements specified on the plan or guaranteed their installation as provided in Section 6.11.

**6.10 Approval Process – Final Development Plan or Final Subdivision Plat**

**(1) Final Development Plan and Final Subdivision Plat Purpose and Intent**

**(A) Final Development Plan**

The purpose of the final development plan is to finalize how a particular area or phase of the Planned Unit Development will be developed. The final development plan is a site plan that shall have to meet the requirements of Article 16.2 of the Navassa Zoning Ordinance and shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses for the building(s).

**(B) Final Subdivision Plat**

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The purpose of the final subdivision plat is to ensure that all subdivisions that occur within the PUD substantially conform to the previously approved PUD District and accompanying concept plan, in addition to the previously approved preliminary subdivision plat. All subdivisions and final subdivision plat approval shall follow the development review and approval process described in the town's Subdivision Ordinance, with exception of the review procedures described in this article. If specific development review procedures listed in this article conflict with the development review procedures listed in the Subdivision Ordinance, the development review procedures in this Article of the Zoning Ordinance shall take precedence.

If specific development standards on an approved PUD District and or accompanying concept plan conflict with the design standards required by the Subdivision Ordinance, the standards in the approved PUD District and accompanying concept plan shall take precedence.

### **(2) Final Development Plan Prerequisites**

#### **(A) Conformance with Approved Plans**

The final development plan shall conform substantially to the approved PUD District and accompanying concept plan, in addition to the previously approved preliminary development plan. If the submitted final development plan deviates in its overall design from the approved preliminary development plan, or if the applicant requests a waiver from any of the standards of this ordinance, the Zoning Administrator and planning staff shall consult with the Technical Review Committee and refer the findings and recommendations of the TRC to the Planning Board for decision.

#### **(B) Required Improvements**

No major final plat shall be approved until all improvements are installed as specified in the approved preliminary development plan and construction plans, or until the developer has issued performance guarantees as established in Section 6.11 and the certificates as depicted thereon have been signed. The required improvements include:

1. Roads within the development and improvements to existing roads required for safe and adequate access to the subdivision.
2. Public or community water supply and sewage disposal systems.
3. Drainage facilities and easements, and stormwater management devices pursuant to the Navassa Stormwater Ordinance.
4. Essential utilities.
5. Erosion and sedimentation control devices.

6. Any other improvement required as a condition for preliminary plat approval.

**(3) Final Development Plan Applicability**

**(A) Effect of Approval**

No building permit shall be issued within a PUD District except in accordance with the approved final development plan or final subdivision plat for each portion or phase of the PUD District pursuant to the requirements of this ordinance and the Navassa Subdivision Ordinance. The final development plan or final subdivision plat must be approved and signed by the Zoning Administrator.

- (B)** No certificates of occupancy shall be issued until all site improvements for the applicable development phase are complete and approved by the appropriate agency or body.

**(4) Final Development Plan Application**

**(A) Application Deadline and Submittal Requirements**

The final development plan application shall be submitted to the planning staff no less than thirty (30) working days prior to the Planning Board meeting at which it is to be reviewed. The applicant shall submit ten (10) copies of the proposed final development plan to the planning staff for review. The applicant shall also submit any required application forms and fee and final development plan submittal shall not be considered complete without receipt of required fees and completed application forms.

**(B) Supportive Documentation**

The final development plan application shall include, but not be limited to the following:

1. An accurate map exhibit of the entire phase for which approval is being requested.
2. Additional information as may have been required by the preliminary development plan approval.
3. An accurate map exhibit of each separate un-subdivided use area, including open space.
4. Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Precise locations need not be shown for single-family residential buildings on individual lots, but plans shall show setback and other bulk constraints.

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5. Design and precise location of all streets, drives and parking areas, including construction details, center line elevations, pavement type, curbs, gutters, and culverts.
6. Location of all utility lines and easements.
7. A final, detailed landscape plan, including size and species, installation specifications, identification of vegetation to be preserved and the measures to accomplish preservation, and conservation easements where required.
8. Tabulation on each separate land use area, including land area, number of buildings, commercial square footage, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
9. Projected construction schedule.
10. Agreements and covenants which govern the use, maintenance, and continued protection of the PUD and common spaces, shared facilities, and private roads.
11. Tabulation on the development plan's contribution towards meeting the policy guidelines of the Future Land Use Map regarding the town's desired ratio of land use types.
12. Additional Information as may be required by the planning staff or Technical Review Committee to evaluate the final development plan.

**(5) Final Development Plan – Zoning Administrator and Planning Staff Review**

The planning staff shall submit a written review of the PUD final development plan to the Planning Board no less than seven (7) days prior to the Planning Board meeting at which it is to be reviewed.

- (A)** The final development plan shall be reviewed by the Zoning Administrator and planning staff for compliance with the approved preliminary development plan. The Zoning Administrator may appoint an engineer to certify the final development plan against the subdivision's actual layout for correctness, charging the costs to the developer.
- (B)** If the planning staff and Zoning Administrator finds the final development plan is in compliance with this ordinance and consistent with the approved preliminary development plan, including any amendments approved by the Planning Board to an approved preliminary plat, planning staff and the Zoning Administrator shall recommend in writing approval of the final development plan.
- (C)** If the planning staff or Zoning Administrator finds that the plan does not comply with this ordinance or deviates from the approved preliminary

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development plan, the findings of the planning staff and the Zoning Administrator shall be stated in writing. In such cases the applicant may: resubmit a final development plan that conforms to the approved preliminary plat in accordance with this subsection; request that the final development plat be forwarded with the written findings to the Planning Board for review; or withdraw the final development plan application.

- (D) If the Zoning Administrator fails to act within thirty-five (35) days after the final development plan is submitted, the applicant may request that the final development plan be forwarded to the Planning Board for review without a recommendation by the Zoning Administrator. The Zoning Administrator may at any time, however, refer an application for final development plan approval to the TRC and the Planning Board.

**(6) Final Development Plan - Planning Board Review**

**(A) Review**

At a regularly scheduled or special called public meeting, the Planning Board shall review:

1. The written statement and supportive material submitted by the petitioner;
2. The previously approved PUD District, and accompanying PUD District narrative and supporting information;
3. The previously approved concept plan;
4. The previously approved preliminary development plan;
5. Any commitments or conditions of approval attendant to prior approvals;
6. Any applicable section of the Zoning and Subdivision Ordinances;
7. Any written comments submitted by the planning staff and/or Planning Board members;
8. Any applicable section of town adopted plans or ordinances; and
9. Additional information as may be required by the Planning Board to evaluate the application.

**(B) Revisions**

Following Planning Board review, the petitioner shall submit to the planning staff revised copies of the final development plan that address any comments and concerns of the Planning Board.

**(7) Final Development Plan - Planning Board Review and Action**

**(A) Decision**

**1. Planning Board Approval**

The Planning Board may permit or require the petitioner to make a written commitment, and may also impose reasonable conditions of approval.

**2. Final Development Plan Minor Deviations from Preliminary Development Plan**

If the Planning Board finds the final development plan proposes minor deviations from the approved preliminary development plan that:

- a. do not require an amendment pursuant to (Section 6.7(10));
- b. do not change the concept or intent of the development;
- c. it may review and approve the final development plan.

The Planning Board decision is subject to appeal under Section 6.9(6)(A)4 as shown below.

**3. Final Development Plan Determination that Amendment is Required**

If the Planning Board determines that the final development plan proposes changes that deviate substantially from the PUD District, and the approved preliminary development plan; an amendment will be required (Section 6.7(10)).

If the petitioner disagrees with the Planning Board's determination, they may request that the Board of Adjustment review the final development plan and determine whether an amendment is required.

**4. Final Development Plan Appeal to Board of Adjustment of Planning Board Decision**

Interested parties affected by the decision of the Planning Board upon review of a final development plan may within fourteen (14) days of such decision request that the Board of Adjustment review the Planning Board decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required, at which the Board of Adjustment may affirm, reverse, or modify the Planning Board decision.

**(B) Final Development Plan Revisions**

Following Planning Board approval, the petitioner shall submit revised copies of the final development plan that address the comments and concerns of the Planning Board.

**(8) Final Development Plan Duration**

**(A) Abandonment**

The final development plan shall be considered abandoned if no Zoning Permit(s) have been obtained within three (3) years after final development plan approval has been granted, or if permit(s) have been obtained but are no longer valid per the terms of this Zoning Ordinance.

**(B) Extension**

An extension, not to exceed twelve (12) months, may be granted by the Planning Board for good cause shown. The Planning Board may grant one (1), twelve (12) month extension.

**(9) Final Development Plan Changes**

**(A) Minor Changes**

The Zoning Administrator may approve minor changes to an approved final development plan, if the changes do not change the concept or intent of the development, without a public hearing or public notice. Such decisions shall be subject to appeal to the Planning Board. This shall include the following:

1. Minor changes in the location and siting of buildings and structures;
2. Changes in height of less than one (1) story, but not over eight (8) feet in any case;
3. Minor changes to an approved landscape plan that do not alter the general concept or screening effectiveness of the landscaping;
4. Minor changes to the internal street system and off-street parking areas; and
5. Changes in the exact type of use in any particular location within the development, as long as the type of use is allowed by the approved PUD District and accompanying concept plan.

**(B) Major Changes**

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Major changes requiring a new final development plan shall be subject to Planning Board review and an amendment (Section 6.7(10)) include the following:

1. Changes in lot arrangement, or addition of buildable lots which change approved density of the development;
2. Changes in site design requirements, such as location or design of required landscaping, signage, building heights or footprints, setbacks, encroachment into areas slated for preservation, or other such development or design standards in the PUD;
3. Changes in access to the development site, where such change amounts to an intensification of traffic patterns on roadways;
4. Any reduction in aesthetic treatment.

### 6.11 Performance Guarantees

- (1) In the event that the required improvements have not been completed prior to the submission of the final development plan, the developer shall guarantee the completion of the required improvements by means of a bond with surety or other guarantees satisfactory to the Town Council in an amount equal to one hundred and twenty-five (125) percent of the estimated cost of the required improvements whereby improvements may be made and utilities installed within a reasonable period of time as agreed upon by the developer and Town Council. One of the following methods may be pursued by the developer to ensure the installation of said improvements:
  - (A) Filing a performance or surety bond with the developer/property owner as principal and a surety approved by the Town Council upon recommendation of the Planning Board; or
  - (B) Depositing or placing in escrow a certified check or cash in an amount to be determined by the Town Council upon recommendation of the Planning Board. Portions of the security deposit may be released as the work progresses; or
  - (C) Filing an irrevocable letter of credit guaranteeing payment to the Town of Navassa in the event of default in an amount to be determined by the Town Council upon recommendation of the Planning Board.
- (2) When the required improvements have been completed, the developer shall notify the Zoning Administrator. The Zoning Administrator shall request comments relative to those improvements from the North Carolina Department of Transportation, the Brunswick County Health Department and Soil and Water Conservation Department, either the Town's consulting engineer or the North Brunswick Sanitary District, and any other relevant regulatory or governmental bodies, who will notify the Zoning Administrator that the improvements have been installed to their satisfaction. The Zoning Administrator shall request in writing to the Town Council or their authorized designee to release the bond, letter

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of credit or funds from escrow. In the event of default by the developer, the Town Council or their authorized designee is authorized to call for payment of the bond or letter of credit or to release security from escrow and to utilize such funds for the completion of improvements in a manner as determined by the Town Council.

**6.12 Phased Development**

With regard to a PUD phased development the following shall apply:

- (1) Phased development shall be allowed if the entire project receives approval for the PUD District and accompanying concept plan.
- (2) No phase or section of an approved PUD shall be revised, enlarged or amended without first resubmitting that phase or section to the Planning Board, provided that changes to individual uses shall be permitted subject to Section 6.3.

**6.13 Design Standards**

The following design standards for a PUD shall apply:

**(1) Land Use Mix**

The PUD should be designed to be compact with a variety of building types to accommodate a mixture of land uses and to conserve open land. The mixture of uses should generally be consistent with the adopted Land Use Plan; however, the arrangement of uses may vary from their locations on the adopted Future Land Use map. The land use mixture of PUDs in Area 1 and Area 2 on the adopted Future Land Use map shall adhere to the adopted guidelines for the buildout land use mixture percentages for each respective area as opposed to the general land use mixtures found in the table below, with the exception of the twenty percent (20%) open space requirement. Ranges of land use mixtures allowed in a PUD outside of Area 1 and Area 2 are based on gross acreage and shown in the following table:

**Table 6-1. Planned Unit Development (PUD) Land Use Mix.**

Residential	40-80%
Single-Family Development:	
Low Density (up to 2.9 units/acre)	10-30%
Medium Density (up to 4.4 units/acre)	10-30%
High Density (up to 7.3 units/acre)	5-20%
Multi-Family Development (up to 10.8 units/acre)	0-10%
Neighborhood Commercial & Office	5-20%
Institutional	5-10%
Open Space/Recreation	20-30%

**(2) Maximum Building Height**

The maximum building height for residential, commercial, office, and institutional structures shall be listed in the PUD narrative and be subject to Town Council approval.

**(3) Building Setback and Separation**

Buildings located on the periphery of the PUD shall be setback a minimum of twenty (20) feet from the PUD boundary. All buildings shall be setback at least ten (10) feet from all pedestrian and bicycle paths. No building shall encroach upon the right-of-way of a proposed thoroughfare as designated by the Town, the Wilmington Metropolitan Planning Organization, or the NC Department of Transportation. In no case shall any part of a detached single-family dwelling unit be located closer than ten (10) feet to any part of any other detached single-family dwelling and in no case shall any part of a multiple-family dwelling unit be closer than twenty (20) feet to any part of another dwelling unit or non-residential building.

**(4) Open Space Standards**

All PUD Districts shall abide by the open space percentages described in this article of the Zoning Ordinance. If specific open space standards on an approved PUD District and or accompanying concept plan conflict with the open space standards required by the Subdivision Ordinance or other articles of this Zoning Ordinance, the standards in the approved PUD District and accompanying concept plan shall take precedence.

All common areas and open space required by this article shall be deeded to an owners association and the developer; or the owner shall file with the Zoning Administrator and record with the Brunswick County Register of Deeds a declaration of covenants and restrictions as well as regulations and bylaws that will govern the open space. Provisions shall include but not be limited to the following:

- (A)** The association shall be established before the homes, buildings or uses are sold.
- (B)** Membership shall be mandatory for each buyer and all successive buyers, unless another arrangement is approved by the Town Council which adequately protects the interests of the Town and the owners.
- (C)** The association shall be responsible for the liability insurance, local taxes and maintenance of recreation and other facilities.
- (D)** Any sums levied by the association that remain unpaid shall become a lien on the individual owner's property which shall be subordinate only to tax and mortgagee liens unless another arrangement is approved by the

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Town Council which adequately protects the interests of the Town and the owners.

- (E) An owner of each dwelling unit or each homeowner or other building owner shall have voting rights in the association.
- (F) Uses of common property including parks and recreation facilities shall be appropriately limited.
- (G) The following information shall also be provided:
  - 1. The name of the association;
  - 2. The manner in which directors of the association are to be selected;
  - 3. The post office address of the initial registered office;
  - 4. The name of the city and county in which the registered office is located;
  - 5. The number of directors constituting the initial board of directors; and
  - 6. A contact list including name, address and phone number of all directors and officers of the association shall be submitted to the Town annually.

### **(5) Payments in Lieu of Open Space Dedication**

- (A) Where a fee is paid in lieu of dedication, the amount of such payment shall be the product of the number of acres required to be dedicated pursuant to this ordinance, and the average fair market value of the land being developed at the time of the submission of the preliminary development plan. The Town Council shall decide the average fair market value of the land based on the value of the land for property tax purposes, information submitted by the applicant, including an appraisal by an appraiser licensed in North Carolina, and other relevant information. The cost of the appraisal shall be the responsibility of the applicant.

The payment in lieu of dedication shall not exceed the fair market value of the land that would otherwise have been required to be dedicated by the planned unit development.

- (B) Upon approval by the Town Council, payment in lieu of dedication shall be made to the Town at the time of final development plan approval or within one year of approval of the preliminary development plan, whichever occurs first. All monies received by the Town of Navassa pursuant to these requirements shall be placed into the Navassa Open Space Improvement Fund, which shall be used only for the acquisition of public open space, providing capital improvements to

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public open spaces, landscaping of public open space, tree plantings, and beautification projects of public spaces within the Town of Navassa. The Town shall also have the authority to sell land dedicated pursuant to these provisions with the proceeds of any such sale used solely for the acquisition and/or development of other recreation or park sites within the immediate service area.

### **(C)** Standards for Selection of Dedication of Fee:

1. Whether the Town Council accepts the land dedication or elects to require payment of a fee in lieu thereof shall be determined by consideration of the following;
  - a. The recreation element of the Town's Coastal Area Management Act (CAMA) Land Use Plan or other applicable plan;
  - b. The recommendation of the Planning Board
  - c. Topography, geology, access, and location of land available for dedication in the planned unit development; and
  - d. Size and shape of the development.
2. The determination by the Town Council as to whether land shall be dedicated or whether a fee should be exacted shall be final and conclusive.

### **(D)** Procedures:

1. At the time of submitting a preliminary development plan, the applicant shall, as part of such submission, indicate whether dedication of the property for park and recreational purposes is proposed, or whether the applicant proposes to pay a fee in-lieu thereof. If the applicant proposes to dedicate land for this purpose, the applicant shall designate the area on the preliminary development plan as submitted.
2. Town Action: At the time of preliminary development plan review, the Planning Board shall recommend to the Town Council whether to require a dedication of land within the development or payment of fee in-lieu thereof, pursuant to the requirements of this ordinance.
3. Approval of Final Development Plan: Where dedication is required, such dedication shall be shown on the final development plan for the development phase submitted for approval. Where fees are required, the same shall be deposited with the Town prior to the recording of the final development plan. Open space covenants for park or recreational facilities

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shall be submitted to the Town prior to approval of the final development plan and shall be record with the final plat

### **(E) Use of Land by the Town**

1. Generally. The land received by the Town under this article shall be used only for the purpose of providing neighborhood open space, park and recreational areas, but shall not be so restricted should the town decide to sell the land as provided by the following paragraph.
2. Fee collected in lieu of dedications and any proceeds from the sale of dedicated land shall be held in a special fund by the Town, and the funds shall be used by the Town for the purpose of acquiring and developing public recreation areas and for no other purpose. The depository for such funds may be the same as permitted for other funds of the Town and pending their expenditure in accordance with the terms of this section, such funds may be invested as other funds of the Town. The Town may, as its discretion, add additional monies to the fund for the purpose of purchasing public recreational land to be used for public recreational purposes. On all matters not specifically provided for in this section, the Local Government Budget and Fiscal Control Act shall be controlling.

### **(6) Streets**

All streets, except alleys, within the PUD shall follow a pattern of intersecting streets that provide alternative routes whenever a feasible connection can be made. All streets, alleys, and sidewalks shall connect to existing and projected streets outside the PUD whenever a feasible connection can be made. A block face should not have a length greater than four-hundred (400) feet without an alley, sidewalk, or bikeway providing through-access to another street or alley. Cul-de-sacs are allowed only where interconnection would result in an adverse environmental impact. Street pavement widths within the PUD may be less than that required by the Town Subdivision Ordinance if such streets are determined by the Town Council to be adequate to provide public services such as garbage collection and fire protection. Each of these street requirements shall be reviewed on a case by case basis in consideration of specific site constraints, multimodal connectivity, and public safety.

### **(7) Buffer Between PUD and Adjacent Properties**

In order to ensure compatibility with adjoining land uses and districts, the PUD shall adhere to the Bufferyard Standards described in Article 13 of the Zoning Ordinance. Any deviations from the bufferyard standards required by this Zoning Ordinance shall be described in the PUD narrative and shall be approved by the Navassa Town Council in consideration of the intent of this article, existing land uses on adjacent properties, and the overall character of the PUD.