

TOWNSHIP OF HEATH

HEATH TOWNSHIP ORDINANCE NO. 46

AMENDMENT TO TOWNSHIP ZONING ORDINANCE

Adopted: August 14, 2000

Effective: September 2, 2000

An ordinance adding Chapter XX of the Heath Township Zoning Ordinance, and to repeal all ordinances or parts of ordinances in conflict herewith.

**HEATH TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

CHAPTER XX B PLANNED UNIT DEVELOPMENT

SECTION 20.01 "PURPOSE." The Planned Unit Development (PUD) is an optional development provision which provides a list of "overlay" zoning standards which apply to the respective "underlying" district and which are consistent with the land use policies expressed in the Township Land Use Plan. For properties approved for the PUD designation, these PUD standards replace the lot area, lot width, set back requirements, and other related regulations of each respective zoning district.

The PUD provisions are intended as a design option, aimed at permitting flexibility in the regulation of land development, encouraging innovation in land use and variety of design of structures, preserving significant natural and historical features and open space, promoting efficient layout of public utilities, minimizing adverse traffic impacts, encouraging development of convenient recreational facilities, and encouraging the use and improvement of existing sites when the uniform regulations contained in other zoning districts do not afford adequate protection and safeguards for the site or its surrounding areas.

The PUD provision and its standards are intended to accommodate development on sites with significant natural, historical, and architectural features and on sites which exhibit difficult development constraints, provide opportunities to mix compatible land uses or housing types, allow for the clustering of residential units to preserve common open space and natural features, or to accomplish a particular development or land use objective identified by the Township.

In order to encourage PUD developments on specific properties, the PUD provision relaxes or waives one or more of the requirements of the underlying zoning district and remains consistent with the policies of the Township Land Use Plan. PUD also allows a developer to mix compatible uses or residential types on a single property, cluster structures to reduce development costs, and enhance marketability through the preservation of natural features and unique design.

SECTION 20.02 APPLICATION AND PROCESS. Upon a recommendation by the Planning Commission and approval by the Township Board, a PUD overlay district may be applied to any existing agricultural, residential, commercial, or industrial district. Upon approval of the final development plan and the PUD agreement by the Township Board, the Official Zoning Map shall be annotated for the land area involved so that PUD overlay is clearly shown on the map. In addition, the Township shall maintain a current list of all approved PUD projects, showing the approval date, the time by which project construction must begin, and the time that the approval period for the final PUD plan expires.

SECTION 20.03 USES PERMITTED. Compatible residential, commercial, and public uses may be combined when the underlying zoning district is residential or agricultural. Residential uses proposed in non-residential zoning districts may be permitted by the Township Board only after the developer provides detailed rationale on how residential uses meet the objectives of the PUD provision of the Zoning Ordinance. Both permitted uses and special uses of the underlying zoning district may be proposed for the PUD.

SECTION 20.04 MINIMUM PROJECT AREA. The gross area of a tract of land to be developed under PUD shall be a minimum of ten (10) acres, provided that parcels as small as one (1) acre may be proposed for PUD on the basis of their potential to meet the intent of the PUD provision.

In an effort to advance the goal of good land use planning, the Township may propose or designate a parcel of any size for the PUD process, if it advances development objectives consistent with the goals of the Township Land Use Plan.

When a PUD proposes a mixture of residential uses and commercial/office uses, the Township Board, with recommendation from the Planning Commission, may allow for five percent (5%) of the gross site area for commercial/office use. Whenever the Township thinks that more commercial area would be beneficial to the Township and the surrounding area, it may permit additional area for commercial and/or office use. However, in no case shall the area planned for commercial/office development exceed ten percent (10%) of the gross site area. Golf courses and club houses shall not be considered as commercial use. However, accessory facilities such as driving ranges and miniature golf shall be considered as commercial uses.

SECTION 20.05 PROJECT OWNERSHIP. The land proposed for a PUD project may be owned or controlled by either a single person, a corporation, or by a group of individuals or

corporations. Such ownership may be by a public or private corporation. The proposed PUD site shall be capable of being planned and developed as one integral unit.

SECTION 20.06 A COMMON OPEN SPACE. A minimum of twenty percent (20%) of the land developed in any PUD project shall be reserved for common open space and recreation facilities. For PUD projects which abut bodies of water and include water area as part of the common open space or as part of a recreational facility, a minimum of twenty five percent (25%) shall be reserved for common open space. Driveways, roadways, parking lots, existing or proposed right-of-way, and easements for overhead transmission lines shall not be considered as open space.

The common open space shall consist of a combination of active and passive recreation areas. At least one (1) active recreation area consisting of between 20,000-30,000 square feet shall be provided for developments containing between fifteen (15) and fifty (50) single family detached dwelling sites, between twenty (20) and seventy (70) townhouses, or between twenty-four (24) and eighty-five (85) apartments. Additional active recreation areas of the same size shall be provided for each additional fraction of the above specified ranges of units. (Example: developments containing between 51 and 100 single family units would require another active recreation area of the same size.) For residential developments which do not meet the minimum numerical thresholds stated in this section, the quantity and quality of active recreation area and facilities will be approved by the Township. The active recreation area shall be graded, planted with grass, and suitable for a variety of outdoor activities and yard games, such as volley ball and soccer. The installation of play equipment, including tennis courts, shall be at the option of the developer.

As a general guide, all housing sites should be designed so as to abut, have convenient access to, or have a view shed of common open space. Passive recreation areas should be massed so as to provide for wildlife, flora, and fauna experiences. Passive recreation areas which are primarily limited to buffer strips at the perimeter of the developments are not considered as meeting the intent of this provision. However, walking, jogging, and bicycle trails may be designed into the development as supplements to the larger recreation areas. All open space provisions will be negotiated by the Township as part of the PUD process.

The intent of this section is to articulate the goal that active and passive recreation areas are valuable assets which add to the quality of life for Heath Township residents and should be made integral parts of the proposed housing developments in the community.

The required amount of common open space reserved under PUD shall either be held in corporate ownership, as part of a Township approved nature conservancy, or by the owners of the project. The time at which control of open space shall pass from the corporate ownership to the owners of the project shall be specified in the master deed.

The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

SECTION 20.07 UTILILITY REQUIREMENTS. Underground utilities, including telephone and electrical systems, are required within the limits of all PUD projects. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Township Planning Commission and Township Board find that such exemption will not violate the intent or the character of the proposed PUD.

SECTION 20.08 ADENSITY DETERMINATION AND DENSITY BONUS. In agriculturally and residentially planned and zoned areas, the base density of any proposed development will be determined by the applicant's build-out design showing the proposed development with the minimum lot size of underlying zoning district in a conventional subdivision plan. Once the base density is determined, a series of bonus densities may be applied to the project. The first is a 10% density bonus for utilizing the PUD process. This recognizes that PUD process is in the best interest of residents of the Township. The second is up to an additional 10% increase in density, provided that the applicant clearly shows how the proposed PUD design is unique, preserves open space beyond the minimum requirement of 20%, or provides a public benefit (such as paving a public road or providing a community recreation facility). However, in no case may an individual lot or building site contain less than 20% of the area or width of the underlying zone requirements. The average area of all residential building sites in the proposed development may not be used as a basis for determining density.

SECTION 20.09 AHEIGHT REQUIREMENTS. For each one (1) foot of height over the maximum height allowed by the underlying zoning district, the distance between nonresidential buildings (e.g. churches) and the side and rear property lines of the development shall be increased by one (1) foot. The same shall apply to the distance between nonresidential buildings.

SECTION 20.10 APARKING. Off-street parking, loading, and service areas shall be provided in accordance with this ordinance. However, off-street parking and loading areas for non residential development shall not be permitted within fifteen (15) feet of any residential use in the PUD.

SECTION 20.11 APERIMETER YARDS. Each structure in the PUD which abuts a perimeter property line of the PUD parcel shall meet a fifty (50) foot setback requirement.

SECTION 10.12 AARRANGEMENT OF COMMERCIAL USES. When PUD's include commercial development, commercial structures shall be planned as groups having common parking area and common ingress and egress points in order to reduce the number of curb cuts. Suitable planting screens or fences shall be provided on the perimeter of the commercial areas whenever they abut residential components of the PUD. The site plan for the development shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation,

landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Planning Commission and Township Board.

SECTION 20.13 APUD PROCESS: PRE-APPLICATION MEETING.@ The developer is encouraged to meet with the Township Planning Commission and the Township Planner to discuss the concepts of the proposed project before submitting a formal application for PUD. This allows for a dialogue on the development goals of the Township as expressed in its Land Use Plan.

SECTION 20.14 ACONTENTS OF APPLICATION: PRELIMINARY DEVELOPMENT PLAN.@ An application for preliminary PUD plan shall be filed with the Township Clerk by all owners of interest in the property for which the PUD is proposed. The plan shall contain the following information:

- (1) Name, address, and phone number of the applicants.
- (2) Name, address, and phone number of registered land surveyor, registered engineer, landscape architect, or land use planner which assisted in the preparation of the preliminary plan.
- (3) Legal description of the property.
- (4) Description of existing use(s) and zoning districts.
- (5) A vicinity map showing property lines, streets, roads, and uses of adjacent properties so that the Township can initially determine how the proposed development will relate to land use in the general vicinity.
- (6) A preliminary development plan at a scale of not less than 1" = 100' showing topography at not less than two (2) foot contours; location and type of residential, commercial, and industrial land use; layout, dimensions, and names of existing and proposed streets, rights-of-way, and utility easements; parks and community spaces; layout and dimensions of lots and building setbacks; preliminary layout of water, sewer, drainage, electric, natural gas, cable, and telephone; and other information the Township considers necessary.
- (7) Proposed schedule for the development of the site. If a multi-phase PUD is proposed, identification of the areas included in each phase. For residential PUD'S, the number, type, and density of proposed housing units within each phase.

- (8) Evidence that the applicant has sufficient control over the site to initiate the proposed PUD within eighteen (18) months of receiving final approval.
- (9) Any additional graphics or materials requested by the Township to assist the Township in determining the appropriateness of the PUD such as aerial photography, market studies, impact on the public school system, traffic impacts, impacts on significant, historical, and architectural features, impacts on drainage, preliminary construction costs, preliminary architectural sketches, and preliminary drafts of bylaws and master deeds.
- (10) A graphic description of how the site proposed for development could be developed under the regulations of the underlying zoning district.
- (11) A filing of \$1,000 must be submitted at the time the application for PUD is filed with the Township. In addition, the Township reserves the right to pass onto to the applicant any costs that the Township incurs for technical assistance in the review of the application and accompanying plans.

SECTION 20.15 A PUBLIC HEARING BY THE PLANNING COMMISSION. Within sixty (60) days after receipt of the preliminary development plan, the Planning Commission shall hold a public hearing, The notice of the public hearing shall be given in one (1) or more newspapers of general circulation in the Township not less than five (5) nor more than fifteen (15) days before the date of the public hearing. The notice shall set a time and place of the public hearing and a general description of the PUD. Written notice of the public hearing shall be sent by mail or delivered by hand not less than five (5) days nor more than fifteen (15) days before the hearing date to persons to which real property is assessed within three hundred (300) feet of the boundary of the proposed PUD.

SECTION 20.16 A APPROVAL IN PRINCIPLE BY PLANNING COMMISSION. Within forty-five (45) days after the close of the public hearing, the Planning Commission shall review the preliminary PUD plan to determine if it is consistent with the intent and purpose of Article 8A; whether the proposed PUD advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with existing and proposed land uses in the surrounding area justify the deviation from standard district regulations. Approval in principle shall not be construed to endorse the location of uses, configuration of building sites, or layout of infrastructure.

SECTION 20.17 A ACTION BY THE TOWNSHIP BOARD. Within forty-five (45) days after the receipt of the approval in principle by the Planning Commission, the Township Board shall either approve, approve with conditions, disapprove the preliminary development plan, or refer the proposed PUD back to the Planning Commission for further study. If the application is referred back to the Planning Commission for further study, the Planning Commission shall have sixty(60) days within which to make its recommendation to the Township Board.

SECTION 20.18 A FINAL DEVELOPMENT PLAN. After the Planning Commission receives a recommendation for approval of the PUD plan, it shall approve the PUD plan at this intermediate stage, approve with additional conditions, or deny the PUD plan. If the plan receives approval or approval with conditions, the applicant may prepare the final development plan. If the Planning Commission denies the PUD plan, the applicant may petition the Township Board for a decision. The applicant may prepare the final development plan if the Township Board overrides the Planning Commission's denial by a majority vote of the full Board.

Ten (10) copies of the final development plan shall be submitted and be endorsed by a qualified technical expert. It shall be in substantial conformance with the PUD plan approved by the Planning Commission and contain the following information:

- (1) A survey of the proposed development site, showing the dimensions and bearings of the property lines, topography, existing natural features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.
- (2) All information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, nonresidential buildings intensity, and land use considered suitable for adjacent properties.
- (3) A schedule for the development of units to be constructed in phases and a description of the design for the buildings and landscaping; tabulation of the number of acres in the proposed project for the various uses in the PUD; the number of housing units by type; estimated residential population by type of housing; estimated nonresidential population; and estimated acres given to active and passive open space.
- (4) Engineering feasibility studies and plans showing water, sewer, drainage, electric, telephone, and natural gas installations; waste disposal facilities; street improvements; and the nature and extent of earth work required for site preparation and development.
- (5) Site plans showing the functional use and relationship of buildings, open space, and circulation.
- (6) Preliminary building plans, including floor plans and exterior elevations.
- (7) Landscaping plans, prepared by a registered landscape architect.

- (8) Association bylaws, master deed, deed restrictions, covenants and other legal statements and devices to be used to control the use, development, and maintenance of the land and improvements including those areas which are to be commonly owned and maintained.
- (9) A statement indicating that, if a part of the proposed development is sold or leased to another party or parties, full compliance with the PUD agreement and the final development plan will be required and enforced.
- (10) A description of the process of how information on the master deed and bylaws of the proposed development will be disseminated to prospective buyers.

SECTION 20.19 A RECOMMENDATION BY THE PLANNING COMMISSION. Within sixty (60) days after receiving the final development plan, the Planning Commission shall recommend to the Township Board that the final development plan be approved as presented, approved with supplementary conditions, or not be approved.

SECTION 20.20 A CRITERIA FOR EVALUATION BY THE PLANNING COMMISSION. Before making its recommendation on the final development plan, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing(s) establish that:

- (1) The proposed PUD can be initiated within eighteen months of the date of approval.
- (2) Each individual unit phase of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objectives will be attained; the uses in the proposed PUD will not be detrimental to present and potential adjacent uses; and will have a beneficial impact which could not be achieved under standard district regulations.
- (3) The streets and thoroughfares proposed are suitable to carry anticipated traffic and the increased densities will not generate traffic in such amounts so as to exceed the design capacities of area roadways.
- (4) Any commercial component of the PUD will be beneficial to the general area and to the population of the proposed development.
- (5) Any deviation(s) from the regulations of the underlying zoning district can be justified by meeting the purpose of the PUD provisions of the Township Zoning Ordinance.

- (6) The area surrounding the proposed PUD can be planned and zoned with coordination and substantial compatibility.
- (7) The proposed PUD meets the development goals and objectives of the Township Land Use Plan.
- (8) The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

SECTION 20.21 ACTION BY THE TOWNSHIP BOARD. Within thirty (30) days after receipt of the recommendation on the final development plan by the Planning Commission, the Township Board shall approve, approve with supplementary conditions, or disapprove the final plan. The Township Board may also refer the final plan back to the Planning Commission for further study. The Township Board shall also approve the final draft of the PUD agreement when it approves the final PUD development plan.

SECTION 20.22 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS. In approving any PUD, the Township Board may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the final plan is approved, shall be considered a violation of this Ordinance. These conditions may be made part of the PUD agreement.

SECTION 20.23 EXPIRATION AND EXTENSION OF APPROVAL PERIODS. The approval of a final development plan for a PUD shall be for a period not to exceed eighteen (18) months. At the end of the eighteen (18) month period, either party (the Township or the applicant) shall provide notice to the other party of termination of the approved PUD. An extension of time limit or modification of the approved final plan may be approved if the Township Board finds that such extension or modification is not in conflict with the public interest.

SECTION 20.24 DEVIATIONS FROM APPROVED FINAL PUD PLAN. Deviations from the approved final PUD plan may occur only under the following circumstances:

- (1) An applicant or property owner who has been granted final PUD approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- (2) Minor changes may be approved by the Zoning Administrator provided that the proposed revision does not alter the basic design nor conditions of the plan. Minor changes shall consist of the following:
 - (a) For residential buildings, the size of structures may be reduced or increased by five percent (5%) provided that the overall density of units does not increase.

- (b) Square footage of nonresidential buildings may be decreased or increased by up to five percent (5%).
 - (c) Buildings may be moved by no more than ten (10) feet.
 - (d) Landscape materials may be replaced by similar plant materials on a one-to-one or greater basis.
 - (e) Building materials may be changed to those of higher quality.
 - (f) Floor plans may be changed provided the change does not alter the character of the use.
 - (g) Sidewalks or refuse storage stations may be relocated.
 - (h) Internal parking lots may be rearranged which does not affect the number of parking spaces or alter access locations.
 - (i) Changes requested by the Township relative to public safety shall be considered a minor change.
- (3) Should the Zoning Administrator determine that the requested modification to the final PUD plan is not minor, re-submission to the Planning Commission is necessary.
- (4) Should the Planning Commission determine that the modifications to the final PUD plan significantly alter the intent of the original concept of the project, a new submission illustrating the modification shall be required and shall be subject to the same approval process as listed in Section 20.14 PUD Process.

SECTION II - EFFECTIVE DATE

This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 297 of 1996. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

HEATH TOWNSHIP

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