

06/16/2005

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO REPEAL SECTIONS 138-1001 THROUGH 138-1008 OF CHAPTER 138, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, ADOPT NEW SECTIONS 138-1001 THROUGH 138-1008 GOVERNING PLANNED UNIT DEVELOPMENTS, REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Chapter 138 of the Code of Ordinances of the City of Rochester Hills shall be, and is, repealed in its entirety, and the following new Chapter 138 shall be adopted in its place:

**DIVISION 18. PLANNED UNIT DEVELOPMENT OPTION:**

**Sec. 138-1001. Purpose and Applicable Regulations.**

(a) The Planned Unit Development (PUD) Option is intended to permit, with City Council approval subject to Section 138-1005, private or public development which is substantially in accordance with the goals and objectives of the City's Master Land Use Plan.

(b) The development permitted under this Section, Planned Unit Development Option, shall be considered an optional means of development only upon terms agreeable to the City. The provision of this option imposes no obligation on the City to encourage or foster its use. The decision whether to approve the use of this option shall be at the sole discretion of the City Council.

(c) The PUD Option permits flexibility in the regulation of land development by encouraging innovation through an overall development plan to provide variety in design layout; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; to encourage the creation of useful open spaces particularly suited to the needs of the parcel(s) in question; and provide appropriate housing, employment, service and shopping opportunities.

(d) It is further intended that the PUD Option may be used to permit nonresidential uses of residentially zoned areas; to permit residential uses of nonresidential zoned areas; to permit densities or lot sizes that are different from the applicable district(s) and to permit the mixing of land uses that would otherwise not be permitted; provided that other objectives are met and the resulting development will promote the public health, safety and welfare.

(e) It is further intended that the development will be laid out so that the various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

**Sec. 138-1002. Definition.**

The term "Planned Unit Development" means a specific parcel of land or several contiguous parcels of land, for which a comprehensive physical plan meeting the requirements of this Section, establishing functional use areas, density patterns, a fixed system of streets (where necessary), provisions for public utilities, drainage and other essential services and similar factors necessary or incidental to development has been approved by the City Council and which has been, is being, or will be developed in accordance with the approved Final Plan.

**Sec. 138-1003. Criteria for Qualification.**

The PUD Option may be used in any Zoning District classification; however, in order to qualify for the PUD Option, it must be demonstrated that all of the following criteria will be met:

- (a) The PUD Option shall not be used for the sole purpose of avoiding applicable requirements of this Chapter. The proposed activity, building or use not normally permitted shall result in an improvement to the public health, safety and welfare in the area affected.
- (b) The PUD Option shall not be utilized in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards.
- (c) The PUD Option may be used only when the proposed land use will not materially add service and facility loads beyond those contemplated in the Master Land Use Plan. The applicant must demonstrate to the satisfaction of the City that the added loads will be accommodated or mitigated by the applicant as part of the PUD.
- (d) The PUD shall meet as many of the following objectives as may be deemed appropriate by the City:
  - 1. To preserve, dedicate or set aside open space or natural features due to their exceptional characteristics or their environmental or ecological significance in order to provide a permanent transition or buffer between land uses, or to require open space or other desirable features of a site beyond what is otherwise required in this Chapter.

2. To guarantee the provision of a public improvement that would not otherwise be required to further the public health, safety or welfare, protect existing uses or potential future uses in the vicinity of the proposed development from the impact of a proposed use, or alleviate an existing or potential problem relating to public facilities.
3. To promote the goals and objectives of the Master Land Use Plan and other applicable long range plans such as the Master Thoroughfare Plan.
4. To preserve and appropriately redevelop unique or historic sites.
5. To permanently establish land use patterns that are compatible with or will protect existing or planned uses.
6. To provide alternative uses for parcels that can provide transition or buffers to residential areas and to encourage redevelopment of sites where an orderly transition or change of use is desirable.
7. To enhance the aesthetic appearance of the City through quality building design and site development.

**Sec. 138-1004. Uses Permitted.**

(a) A land use plan shall be submitted for the area within the PUD. The land use plan shall be defined by the districts of the zoning ordinance that are to apply to the components of the PUD area.

(b) Principal Uses Permitted and Special Land Uses Permitted in the Zoning Ordinance shall be allowed within the districts identified on the PUD Plan, except that City Council may prohibit some uses from districts designated on the PUD Plan. City Council may also permit uses not otherwise permitted in the district if specifically noted on the PUD Plan. Conditions applicable to Principal Uses Permitted and Special Land Uses Permitted shall be used as guidelines for design and layout. Conditions may be waived or modified by the Planning Commission provided that such waivers or modifications are indicated on the PUD Plan.

**Sec. 138-1005. Height, Bulk, Density and Area Standards.**

The height, bulk, density and setbacks standards of each zoning district shall be applied to each specific district area designated on the PUD plan, except as specifically modified and noted on the PUD Plan.

## **Sec. 138-1006. Submittal, Review and Approval Process.**

The submittal, review and approval process shall consist of the following two steps:

(a) Step One: PUD Option Application and Concept Plan.

1. Authorized applicant. A person owning or controlling the land may request consideration of the PUD option. The applicant shall submit a request for a determination as to whether the parcel qualifies for the PUD Option under the criteria set forth, below, in Paragraph 3, Planning Commission Review.
2. Submittal of proposed PUD Concept Plan. Application shall be made to the Planning Department for review and recommendation by the Planning Commission. The application shall include the following:
  - a. A Certified boundary survey of the exact acreage being requested prepared by a registered land surveyor (scale: not smaller than one (1) inch equals one hundred (100) feet).
  - b. A topographic map of the entire area at a contour interval of not more than two (2) feet. This map shall indicate all major stands of trees, bodies of water, wetlands and unbuildable areas (scale: not smaller than one (1) inch equals one hundred (100) feet).
  - c. A proposed Project Land Use Plan identifying the following items of information. The Project Land Use Plan shall be drawn at a scale no smaller than one (1) inch equals one hundred (100) feet (1" = 1 00'):
    - i. Land use areas requested in the PUD Option and identified or defined by the proposed zoning districts.
    - ii. Vehicular and pedestrian circulation, including major drives, the location of vehicular and pedestrian access points, non-motorized and pedestrian pathways, and cross sections and public or private streets.
    - iii. Transition treatment, including minimum building setbacks from property lines and land use boundaries within the PUD.
    - iv. The general location of nonresidential buildings and parking areas, estimated floor areas, building coverage, number of stories, building height, and proposed building facade elevations.
    - v. The general location and density of proposed residential unit types, including lot width and lot area for detached single family residences.

- vi. The general location of all woodlands, wetlands, water bodies and watercourses and proposed stormwater management facilities.
  - vii. The boundaries of open space areas that are to be preserved and reserved and an indication of the proposed ownership thereof.
  - viii. A schematic landscape treatment plan for open space areas, streets and border/transition areas within the PUD and along perimeter property lines.
  - ix. A preliminary grading plan, identifying the extent of grading and any areas that are not to be graded or disturbed.
  - x. A preliminary utility plan, including a contemplated water distribution, storm and sanitary sewer plan.
  - xi. Any deed restrictions or restrictive covenants associated with the property.
  - xii. All easement locations.
  - xiii. A written statement explaining in detail the Applicant's full intentions under the PUD Option including the type of dwelling units or uses contemplated and resulting population, floor area, parking and supporting documentation, including the intended schedule of development.
3. Planning Commission Review and Public Hearing. The Planning Commission shall hold a public hearing, report its findings and make a recommendation to the City Council concerning the PUD Option Application and Concept Plan. The Planning Commission shall review the proposed PUD Concept Plan for compliance with the following objectives and requirements:
- a. The proposed PUD promotes the land use goals and objectives of the City.
  - b. All applicable provisions of this Division shall be met. Where provisions of this Division conflict with any other sections of this Chapter, the provisions of this Division shall control and apply to the lands within a PUD area.
  - c. There is, or will be at the time of initial development, adequate means of disposing of sanitary sewage and supplying the development with water, and the road system and storm water drainage system are adequate.

4. City Council Review. Upon receipt of the Planning Commission recommendation, City Council shall review the PUD Option Application and Concept Plan and make the final determination on the Applicant's fulfillment of the above stated objectives and requirements.
    - a. If City Council approves the application, it shall require the applicant to prepare a PUD contract, conforming to Section 138-1008 below, setting forth the conditions upon which the City's approval is based. After review and recommendation by the City Attorney, Planning Commission and subsequent approval by the City Council, the contract shall be executed by the City and the applicant. Approval shall be granted only if the City Council determines all provisions of this Chapter have been met and that the proposed development will not adversely affect the public health, safety and welfare.
    - b. Once an application for PUD and the Concept Plan has been approved by the City Council, no development or other use may take place on the property within the PUD except in accordance with the approved Concept Plan or in accordance with an approved amendment thereto.
    - c. No approved plan shall be terminated except with the approval of the City Council and the applicant, its successor or assign.
- (b) Step Two: Submission of Final Plats, Site Plans and Schedule for Completion of the Approved PUD.
1. Prior to the issuance of any permits for activity within the PUD area, final plats or site plans and open space plans for a project area shall be submitted to the Planning Department for review and recommendation by the Planning Commission and final City Council approval based on the following:
    - a. Review and approval of site plans shall comply with this Section except as otherwise modified in the approved PUD plan. Review and approval of plats shall comply with Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101, et seq., MSA 26.430 (101), et seq.), as amended, and applicable Ordinances of the City.
    - b. Before approving any final plat or plan, the Planning Commission shall determine that:
      - i. All portions of the project area shown upon the approved plan for the PUD for use by the public or the residents within the PUD have been dedicated to such use in the PUD contract;
      - ii. The final plats or site plans are in conformance with the approved PUD contract and PUD plan;

- iii. In accordance with the PUD contract, provisions have been made to guarantee open space and common area improvements shown on the Final Plan, and that maintenance of such improvements is assured in accordance with the PUD contract.
2. Plans for tree removal permit and wetland permit review shall be submitted at the time of Step Two review.
3. Final plats or site plans for the PUD area must be submitted and approved within two (2) years of the execution of the PUD contract, or such other period of time stated in the PUD contract. If such plats or plans have not been submitted and approved within the prescribed time, the right to develop under the approved plan may be terminated by the City.
4. If development of approved final plats or site plans is not substantially completed in three (3) years (or such other period of time stated in the PUD contract) after approval, further final submittals under the PUD shall cease until the development of part in question is completed or cause can be shown for not completing same.

**Sec. 138-1007. Fees.**

Fees for review of PUD Plans under this Chapter shall be set forth in City Code Chapter 110.

**Sec. 138-1008. PUD Contract.**

The PUD contract shall contain, at a minimum, the following information:

- (a) The permitted uses of the property.
- (b) The permitted density and/or intensity of use.
- (c) Dimensional provisions, including but not limited to building floor areas, setbacks, and building height.
- (d) Provisions for reservations or dedications of land for public purposes, if applicable.
- (e) Conditions, terms, restrictions and requirements on which approval is based, including phasing requirements, requirements for on-site or off-site improvements and contributions to improvements to public facilities.
- (f) A timeframe for commencement and completion of improvements associated with the PUD, including both public infrastructure improvements and internal

site improvements, along with the means of ensuring that all public improvements are constructed and maintained.

- (g) A statement indicating that, except as otherwise provided by the contract, regulations governing permitted uses of land, density, design, improvement and construction standards and specifications applicable to development of the property shall be the regulations in force at the time. The PUD contract shall not prevent the City from applying new or amended regulations that do not conflict with the PUD contract.
- (h) A requirement that if changes in federal or state laws or regulations enacted after the contract has been executed operate to prevent compliance with parts of the contract, or render compliance impractical or unreasonably difficult, the inconsistent provisions of the agreement shall be modified, deleted or suspended as necessary to conform to such changes in federal or state law.
- (i) Procedures for amending the PUD contract.
- (j) Penalties for violating the PUD contract or failing to complete improvements included in the PUD.

#### **Sec. 138-1009. Amendments to PUD Plan.**

Proposed amendments or changes to an approved PUD Plan shall be submitted to the Planning Commission. The Planning Commission shall determine whether the proposed modification is minor in nature and does not to violate the area and density requirements or materially affect the overall character of the PUD plan. In such case, the Planning Commission may approve or deny the proposed amendment. If the Planning Commission determines the proposed amendment is material in nature, the amendment must be reviewed by the Planning Commission and approved by the City Council in accordance with the procedures applicable to Final Approval of the Planned Unit Development.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefor shall be punishable by a civil fine of not more than \$500.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on \_\_\_\_\_, following its publication in the *Rochester Eccentric* on \_\_\_\_\_.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on Wednesday, \_\_\_\_\_.

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Pat Somerville, Mayor  
City of Rochester Hills

CERTIFICATE

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof on Wednesday, \_\_\_\_\_.

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Jane Leslie, Clerk  
City of Rochester Hills