



**PLANNING AND ZONING COMMITTEE**

**Meeting Agenda**

**February 3<sup>rd</sup>, 2022 at 7:00 PM**

**Arlington Community Center — Council Chambers**

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Approve the Minutes
  - a. January 6<sup>th</sup>, 2022
5. Motion to approve/deny zoning report to rezone the B-1 District surrounding David Meffert property.
6. Discussion about edits for sections 10 through 14.
7. New Business
  - a. Discussion of definition added by the Planning and Zoning Administrator
  - b. Discussion of the PUD/ Overlay District
8. Other/Updates
  - a. None
9. Adjournment



PLANNING AND ZONING COMMITTEE

Meeting Agenda

January 6<sup>th</sup>, 2022 at 7:00 PM

Arlington Community Center — Council Chambers

1. Call to Order was called to order at 7:03 pm

Members Present

Michelle Battcher  
Jeanne Bearson  
Joe Prasad  
Tom Hatlestad  
Brandon Brinkman

Member Absent

None

Staff Present

Amy Newsom

Staff Absent

Phil Mangis

Guest Present

None

2. Pledge of Allegiance
3. Swearing in of Jeanne Bearson
4. Election of Officers
  - a. Chairperson- Motion by Battcher, second by Prasad to nominate Joe Prasad as Chairperson, motion carried.
  - b. Vice Chairperson- Motion by Battcher, second by Prasad to nominate Brandon Brinkman as Vice Chairperson, motion carried.
  - c. Secretary- Motion by Battcher, second by Prasad to nominate Phil Mangis as Secretary, motion carried.
5. Public Hearings at 7pm —
  - a. Rezoning of 863 6<sup>th</sup> Ave from B-1 Service Business District to R-1 One Family Residential District- David Meffert

The owner (David Meffert) located at 863 6th Ave is requesting to have the property rezoned from a B-1 Service District to a R1/AG Residence & Agricultural District. The owner would like to build a Single-Family home on the property. The B-1 Service District would not permit this by right or conditional use; therefore, the property must be rezoned. There was no objection by any residents in town.

Public Hearing closed at 7:11p.m

6. Approve Agenda

Battcher made a motion to approve the agenda, seconded by Hatlestad. Motion carried.

7. Approve the Minutes

a. December 2<sup>nd</sup>, 2021

Battcher made a motion to approve the agenda, seconded by Brinkman. Motion carried.

8. Resolution 01-2022 Approving/Denying the Rezoning of 863 6<sup>th</sup> Ave from B-1 Service Business District to R1/AG Residence & Agricultural District.

Motion by Battcher to introduce Resolution 01-2022 Approving/Denying the Rezoning of 863 6th Ave from B-1 Service Business District to R1/AG Residence & Agricultural District, second by Hatlestad. Motion carried. Roll call was taken, all committee members present voted in favor. Resolution was adopted.

9. Motion to approve/deny zoning report to rezone the B-1 District surrounding David Meffert property.

Battcher made a motion to table approve/deny zoning report to rezone the B-1 District surrounding David Meffert property, seconded by Hatlestad. Motion carried.

10. Discussion about businesses having a limit number of employees.

Committee has decided to have the P&Z administrator to remove the language that limits the number of employees.

11. New Business

a. Reviewing/Amending pages 11-1 through 13-3 of the City of Arlington Zoning Code

Battcher made a motion to table Reviewing/Amending pages 11-1 through 13-3 of the City of Arlington Zoning Code, seconded by Brinkman. Motion carried.

b. Discussion of definition added by the Planning and Zoning Administrator

Brinkman made a motion to table Discussion of definition added by the Planning and Zoning Administrator, seconded by Hatlestad. Motion carried.

12. Other/Updates

a. Update of SRTS grant

Committee decided to have the P&Z administrator submit the SRTS grant drawings as is, they also would want to see if Bolton & Menk can cut back of the engineer cost (see if they can work around the fire hydrants, instead of removing them).

13. Adjournment

Motion made by Battcher to adjourn the Meeting at 8:17 and was second by Hatlestad. Motion Carried.

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P&Z Administrator

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P&Z Chair

# **Zoning Data Report**

## **PROPERTY INFORMATION**

SITE INFORMATION:	
Site Name	
Site Address(es)	
Property ID (APN or Block/Lot)	
Location	
Municipal Jurisdiction	
Current Site Use	
Site Acreage (Site Square Footage)/Source	
BUILDING INFORMATION:	
Year(s) of Construction	
Number of Buildings	
Number of Units	
Gross Building Square Footage/ Source	
Building Footprint Square Footage	
Number of Floors/Stories	
Height	
Additional Improvements/ Structures	

# **ZONING CLASSIFICATION, REQUIREMENTS & CONFORMANCE**

## **CURRENT ZONING CLASSIFICATION:**

Zoning District	District Description	Current Use Conformance

## **SURROUNDING PROPERTY ZONING CLASSIFICATION:**

Direction	Zoning Classification
North	District:
East	District:
South	District:
West	District:

## **SIZE & DENSITY REQUIREMENTS:**

Ordinance Section	Requirement	Subject Property
<b>LOT SIZE</b>		
Development Standards	Lot size requirements:	Lot Area:
<b>COVERAGE</b>		
Development Standards	Maximum Building Coverage permitted is:	Lot Coverage:
<b>FLOOR AREA RATIO</b>		
Development Standards	Maximum Floor Area Ratio (FAR) permitted:	FAR:
<b>HEIGHT</b>		
Development Standards	Maximum building height permitted:	Building Height/Floors:

**YARD SETBACK REQUIREMENTS:**

Ordinance Section	Requirement	Subject Property	Source
<b>FRONT</b>			
Development Standards			
<b>REAR</b>			
Development Standards			
<b>SIDES</b>			
Development Standards			
<b>ACCESSORY STRUCTURES</b>			
Accessory Buildings			

**PARKING REQUIREMENTS:**

<b>PARKING</b>			
Requirement		Subject Property	Source

**VARIANCES & CONDITIONAL/SPECIAL USE PERMITS:**

The following Variances/Conditional Use Permits have been issued for the Property's use and/or improvements:

Permit ID	
Type of Permit	
Date	
Description	

**SITE PLAN APPROVALS:**

**CODE VIOLATIONS:**

Zoning Code Violations	
Building Code Violations	
Other Code Violations	

**CERTIFICATE OF OCCUPANCY:**

A Certificate of Occupancy was on file for the Subject Property, issued on Month Day, Year. A copy is included in the appendices.

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**REFERENCES****ZONING ORDINANCE & MAP:**

- Municipal Jurisdiction, The Zoning Ordinance
- Municipal Jurisdiction, Interactive Online GIS Map

Copies of the relevant portions of the zoning code and zoning map are included as appendices to this report.

**INTERVIEWS & CORRESPONDENCE:**

As part of this investigation the following individuals were contacted:

Name Title	
Municipal Department	
Contact Information	Phone: Email: Address:
Contact Date	



## **FINDINGS**

Report Section	Allowed	No Further Action	No Violation	Need Survey to Confirm	Comments
Current Zoning Classification					
Lot Size & Density Requirements					
Yard Setback Requirements					
Parking Requirements					
Variances & Conditional/Special Use Permits; Site Plan Approvals					
Zoning Code Violations					
Building Code Violations					
Other Code Violations					
Certificate(s) of Occupancy					

## **CONCLUSIONS:**

	Conformance	Comments
Conformance Use		
Conformance Property		

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### Checklist for Reviewing Proposed Zoning Amendments

Following are some questions to incorporate in the zoning ordinance and consider when reviewing proposed zoning amendments.

	Yes	No
1. Is the request consistent with the comprehensive plan?	_____	_____
2. Does the community need more land in the requested district?	_____	_____
3. Are there other properties in the community that might be more appropriate for this use?	_____	_____
4. Will the request have a serious impact on traffic circulation, parking, sewer and water service, or other utilities?	_____	_____
5. Will the request have a negative adverse impact on property values in the vicinity?	_____	_____
6. Will the request result in lessening the enjoyment or use of adjacent properties?	_____	_____
7. Will the request cause serious noise, odors, light, activity or other unusual disturbances?	_____	_____
8. Will the request result in illegal spot zoning? (i.e. use is inconsistent with surrounding properties and serves only private, rather than public interests)	_____	_____

LEGAL DISCLAIMER: This handout should not be used as a substitute for applicable law, including the City of Arlington Zoning Code. The applicant is responsible for compliance with all applicable legal requirements, whether or not addressed in this handout.

## **SECTION 10: B-1 SERVICE BUSINESS DISTRICT. SUBDIVISION 1. PURPOSE.**

The B-1 District is intended for commercial activities which might be incompatible with uses in the Central Business District by reason of traffic considerations, marketing characteristics, area requirements, and other characteristics inherent in these uses.

## **SUBDIVISION 2. PERMITTED USES.**

Within the B-1 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

- A. Armories, convention halls, or exhibition halls.
- B. Bowling alleys, billiards, or pool halls.
- C. Bakeries ~~employing not more than four (4) persons in the baking process.~~
- D. Bus Station.
- E. Cabinet, carpenter, upholstering, or furniture repair shops ~~employing not more than four (4) persons in the construction or repair process.~~
- F. Dry cleaning establishments, laundries, Laundromats, self-servicing ~~or employing not more than four (4) persons in the laundering, cleaning, and pressing process.~~
- ~~G. Frozen food lockers for individuals or family.~~
- H. Grocery, ~~fruit, vegetable, and meat~~ stores.
- I. Greenhouses, nurseries, and garden stores.
- J. Laboratories, medical and dental.
- K. Lumber yards.
- L. Marine and boat sales and servicing establishments.
- M. Miniature golf courses, par three golf courses or archery or golf driving ranges operated for commercial purposes.
- N. Monument sales, not including processing.
- O. Mortuaries or funeral homes.
- P. Motels, hotels, or apartment hotels.

- Q. Newspaper distribution agencies.
- R. Orthopedic and medical appliance stores, but not including the assembly or manufacturing of such articles.
- S. Pet and animal hospitals.
- T. Plumbing, heating and air conditioning shops and showrooms.
- U. Printing and publishing shops.
- V. Public utility structures.
- W. Municipal and government buildings.
- X. Radio and television service and repair shops.
- Y. Recording studios.
- Z. Restaurants.
- AA. Skating rinks.
- BB. Taverns.
- ~~CC. Telephone booths (outside).~~
- DD. Theaters.
- EE. Vending machines ~~for ice, soft drinks, and milk sales.~~
- ~~FF. Accessory uses customarily incident to the above permitted uses per Section 17, other than signs, customarily incident to the uses permitted in Section 6, Subdivision 2, and Section 9, Subdivision 3.~~
- GG. Signs: per Section 18 of this Ordinance.
- HH. New or used automobile sales or storage lots, new or used implement sales or storage lots, automobile laundries or car washes, automobile service stations or repair shops provided:
  - 1. The parking lot shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exists, screening of exterior storage lots, and parking stalls shall accompany the request for a conditional use permit.

2. Artificial lighting shall be directed away from any public right-of-way and any residential district.
3. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.

### **SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.**

Within a B-1 District buildings or land may be used for one (1) or more of the following uses if granted a conditional use permit:

- A. ~~New or used automobile sales or storage lots, new or used implement sales or storage lots, automobile laundries or car washes, automobile service stations or repair shops provided:~~
  1. ~~The parking lot shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, screening of exterior storage lots, and parking stalls shall accompany the request for a conditional use permit.~~
  2. ~~Artificial lighting shall be directed away from any public right-of-way and any residential district.~~
  3. ~~A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.~~
- B. Drive-in restaurants, drive-in theaters, or similar uses that provide goods and services to patrons in automobiles, provided:
  1. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.
  2. The parking area shall be surfaced with a dust-free material, and plans for the arrangements of entrances, exits, and parking stalls shall accompany the request for a conditional use permit.
  3. Lighting shall be directed away from any public right-of-way and any residential district.
- C. Parking lots in setback zone.
- D. Other business activities of the same general character as listed in Section 10, Subdivision 2 under permitted uses.

### **SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.**

- A. Height Regulations:
  1. ~~The height regulations of the B-1 District shall be those of Section 9, Subdivision 4 (A).~~

Structure shall not exceed two and one-half (2 1/2) stories **three (3) stories or thirty-five (35) feet in height**, whichever is lower, except that church spires, belfries, domes which do not contain usable space, water towers, chimneys or smokestacks and cooling towers, may be erected with no height limitations except airport requirements.

~~2. On any lot abutting an R-1 District, the height regulation of the R-1 District Section 7, Subdivision 4 (A) shall be observed.~~

B. Front Yard Regulations: There shall be a front yard having a depth of thirty (30) feet.

C. Side Yard Regulations:

1. There shall be a side yard having a depth of ten (10) feet, except that:

a. A buffer yard shall be required for the portion of a lot having a common lot line with a lot located in any residential district, each such buffer yard shall be approved by the Planning Commission and have a width of at least fifteen (15) feet and featuring screening such as a privacy fence or vegetative cover sufficient to lessen the view of the business from the adjoining lot.

D. Rear Yard Regulations:

1. There shall be a rear yard having depth of not less than twenty (20) feet, except that:

a. A buffer yard shall be required for the portion of a lot having a common lot line with a lot located in any residential district, each such buffer yard shall be approved by the Planning Commission and have a width of at least fifteen (15) feet and featuring screening such as a privacy fence or vegetative cover sufficient to lessen the view of the business from the adjoining lot.

E. Lot Coverage Regulations: Not more than fifty (50) percent of a lot shall be occupied by buildings.

#### **SUBDIVISION 5. PARKING REGULATIONS. -move to parking regulation subdivision**

A. The required parking and loading spaces shall be provided on the premises of each use.

~~B. No parking shall be allowed in any required yard except as provided in Section 10, Subdivision 3 (C).~~

C. Each parking space shall contain a minimum area of not less than three hundred (300) square feet including access drives, and a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet.

- D. The minimum number of required off-street parking spaces for various uses shall be a minimum of one (1) parking space for each employee, based on the number of employees present at the same time on a typical work shift, plus sufficient off-street parking to accommodate visitors and customers during normal business traffic hours, as determined by the City Council on a case-by-case basis.

## **SECTION 11: B-2 CENTRAL BUSINESS DISTRICT. SUBDIVISION 1. PURPOSE.**

The B-2 District is intended for retail stores and offices which are mutually compatible and can benefit from and contribute to a compact shopping area serving the City or region.

### **SUBDIVISION 2. PERMITTED USES.**

Within a B-2 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

- A. Animal or pet shops.
- B. Antique, gifts, or jewelry stores.
- C. Apartments mixed with compatible commercial uses in the same building provided:
  - 1. A separate ingress/egress in the rear of the building is provided for the residential units. Alternately, a separate ingress/egress from the public sidewalk in front of the building may be considered through a conditional use permit.
  - 2. Apartments may be located on the ground floor; street level provided a space is reserved for commercial uses. Said space must be at the front of the building and maintain a minimum depth of twenty-five (25) feet and a minimum width equal to the width of the structure.
- D. ~~Apparel, dry goods, or~~ Department stores.
- E. Appliance, sewing machine sales and service, hardware, paint, and wallpaper stores; bicycle sales and repair.
- F. Art and school supply, book, and stationery stores.
- G. Art, photographic, music and dance studios.
- H. Bakeries ~~employing not more than four (4) persons in the baking process.~~
- I. Banks, savings and loan associations, loan, and finance companies.
- J. Barber and beauty shops.
- K. ~~Business, commercial, or trade schools.~~
- L. Camera, or photographic supply stores, hobby, toy, or record stores, sporting goods stores; musical instrument stores.
- M. Clinic, ~~for people only.~~



- N. Radio or television broadcasting or transmitting stations or studios; radio and television repair, when operated as an accessory to a retail sales establishment.
- O. ~~Drugs, variety, and five and ten cent stores.~~
- P. Dry cleaning and laundry collection stations.
- Q. Professional and other business offices; employment agencies.
- R. Furniture store, carpet, and rug stores.
- S. Grocery, fruit, vegetable, floral or meat stores; candy, ice cream, soft drink, or confectionary stores, excluding drive-in type service.
- T. Leather goods, and luggage; shoe stores and shoe repair service.
- U. Liquor stores and taverns.
- V. Medical supply stores.
- W. Newsstands.
- X. ~~Laboratories.~~
- Y. ~~Physical culture and~~ Health clubs, gyms.
- Z. Pipe and tobacco shops.
- AA. Post offices.
- BB. Restaurants, tearooms, delicatessens, cafes, excluding drive-in type service.
- CC. Single Family Residential Uses existing at the time of Ordinance adoption (effective date March 22, 2012).
- DD. Tailor shops.
- EE. ~~Telephone booths (outside).~~
- FF. Theaters.
- GG. Electrical service shops

HH. Accessory uses as follows, customarily incident to the above permitted uses per Section 17.

- ~~1. Any accessory use, except signs, customarily incident to the above permitted uses.~~
- ~~2. Signs: per Section 18 of this Ordinance.~~

II. Signs: per Section 18

JJ. New or used passenger automobile sales or storage lots, automobile service stations or repair shops provided:

1. Vehicle parking areas shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, and parking stalls shall accompany the request for a conditional use permit.
2. Artificial lighting shall be directed away from any public right-of-way and any residential district.
3. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.

### **SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.**

Buildings or land may be used for the following, if granted a conditional use permit:

- A. Any business activity of the same general character as those listed in Section 11, Subdivision 2, in the permit use section
- B. Any of the uses listed in Section 10, Subdivision 2, except that such uses must conform to the rules set out in Section 11, Subdivisions 4 and 5. Any use permit in a B-1 Service District, that is not already permitted under the B-2 Central Business District and must conform to the General Regulations set forth in the B-2 Central Business District.
- C. Custom or limited manufacturing, assembly, or treatment of merchandise comprised of cloth, natural or synthetic fiber, leather, ornamental metal, paper, plants, plastic, stone, wax, wood, and wool provided the following standards are met:
  1. Manufacturing operations are limited to the first floor (street level) and below the first floor. Manufacturing operations shall not occur in an upper story. Manufacturing uses shall be compatible with residential uses when in a mixed-use structure.
  2. To the extent possible deliveries shall be to the rear of the principal structure in an attempt to keep public streets free from interference by said delivery traffic.
- D. Business, commercial, or trade schools.

~~E. New or used passenger automobile sales or storage lots, automobile service stations or repair shops provided:~~

~~1. Vehicle parking areas shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, and parking stalls shall accompany the request for a conditional use permit.~~

~~2. Artificial lighting shall be directed away from any public right-of-way and any residential district.~~

~~3. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.~~

~~F. All business vehicles shall be accommodated by off-street parking.~~

~~G. Office or retail sales areas shall be maintained at the front (street-facing) side of the building.~~

~~H. Manufacturing operations are limited to the first floor (street level) and below the first floor. Manufacturing operations shall not occur in an upper story. Manufacturing uses shall be compatible with residential uses when in a mixed-use structure.~~

~~I. To the extent possible deliveries shall be to the rear of the principal structure in an attempt to keep public streets free from interference by said delivery traffic.~~

#### **SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.**

~~A. Height Regulations: The height regulations of the B-2 District shall be those of Section 9, Subdivision 4 (1)-~~ three (3) stories or thirty-five (35) feet in height

~~B. Yard Regulations and Lot Coverage Regulations: None required except to provide off-street parking and loading if required.~~

#### **SUBDIVISION 5. GENERAL REGULATIONS.**

A. Lighting shall be directed away from public right-of-way and residential districts.

B. An awning, canopy, or marquee suspended from a building may extend over the public right-of-way ten (10) feet and not closer than two (2) feet of the curb line extended. Such structures shall be not less than eight (8) feet from the sidewalk or ground grade line, and the owner of such structure shall be responsible for its structural safety.

C. All business vehicles shall be accommodated by off-street parking

D. Office or retail sales areas shall be maintained at the front (street-facing) side of the building.

## **SUBDIVISION 6. DESIGN STANDARDS.**

- A. Intent and Purpose. It is the intent of the City to promote and encourage high standards of creative, traditionally based, architectural design in the Central Business District. Activities within the Central Business District shall comply with the following design standards and guidelines. The restoration, remodeling and/or expansion of existing buildings shall, to the maximum extent possible, bring exterior facades back to the appearance they had when they were originally constructed, or maintain a similar architectural style to the original construction, or comply to the extent possible with these design standards and guidelines.
- B. Major maintenance of all buildings within the Central Business District shall be permanently kept up so that:
  - 1. The visual appearance does not deteriorate to a point where the building becomes visually blighted;
  - 2. The structure becomes uninhabitable;
  - 3. The building becomes structurally deficient; or,
  - 4. The structure becomes hazardous to occupants.
- C. Site and Design Elements. New principal structures and additions to existing principal structures exceeding 50% structure size shall be designed in a manner that is sensitive to, compatible with, and reminiscent of historic building patterns in the central business district in Arlington. Said new principal structures and qualifying additions to existing principal structures shall meet this standard:
  - 1. By placing the structure at the front lot line (i.e., on a property line shared with a public street).
  - 2. By purposely treating building exteriors facing public streets in a manner in which the street level story is visually distinct from any upper story of the building. This distinction can be achieved in a number of ways including, but not limited to an intermediate cornice line, awning, or portico; a change in building materials or detailing; or a change in window shape or treatment.
  - 3. By incorporating storefront windows as the primary design element on the street level and featuring windows as a prominent design element in upper stories of the building.
  - 4. By employing flat or pitched (gabled, hipped) roofs or a combination thereof. Where flat roofs are employed ornamental parapets or cornices are strongly recommended.

Roofing material shall be the same or similar to those employed on roofs on adjacent principal structures. Metal roofing comprised of non-commercial grade metal, pre-manufactured resin, plastic, fiber, vinyl

## **SECTION 12: I-1 LIMITED INDUSTRIAL DISTRICT.**

### **SUBDIVISION 1. PURPOSE.**

The I-1 District is intended for administrative, wholesaling, manufacturing, and related uses which can maintain high standards of appearance, including open spaces and landscaping, and limit external effects such as noise, odors, smoke, and vibration.

### **SUBDIVISION 2. PERMITTED USES.**

Within an I-1 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following uses, and such uses must comply with the performance standards of this Section:

- A. ~~All uses permitted in the B-1 Service Business District.~~
- B. Cartage and express facilities, and railroad rights-of-way.
- C. Storage and warehousing facilities; wholesale business and office establishments.
- D. Bottling establishments.
- E. Building materials sales and storage establishments.
- F. Radio and television towers and stations; electric light or power generating stations.
- G. Engraving, printing, publishing, cartographic, and bookbinding establishments.
- H. ~~Dry cleaning, dyeing and laundering establishments.~~
- I. Electrical and electronic manufacturing establishments; electrical service shops.
- J. ~~Medical, dental, and optical Laboratories.~~
- K. Public utility structures and governmental buildings.
- L. Jewelry, camera, and photographic manufacturing establishments.
- M. Laboratories
- N. Lumber yards.
- O. Marine and boat sales and servicing establishments.
- P. Garages for storage, repair, and servicing of motor vehicles and farm implements

Q. Contractor's offices, shops, yards and storage facilities for plumbing, heating, glazing, painting, paperhanging, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.

R. Accessory uses ~~as follows~~; customarily incident to the above permitted uses per Section 17.

1. ~~All uses, except signs, customarily incident to the above permitted uses.~~

2. ~~Signs: per Section 18 of this Ordinance.~~

S. Signs: per Section 18

### **SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.**

Within an I-1 District, buildings or land may be used for the following, if granted a conditional use permit:

A. Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods, or products similar to those listed in ~~Section 12, Subdivision 2~~ under permit use and which comply with the performance standards of this district.

B. Junk Yards: per Section 19

~~C. Retail and service establishments consistent with a Planned Unit Development Overlay and providing goods and services which are primarily for the use of persons employed in this district.~~

### **SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.**

A. Height Regulations: No structure shall exceed ~~two and one-half (2 1/2) stories or thirty-five (35) feet in height~~, three (3) stories or thirty-five (35) feet in height, whichever is lower, except that cooling towers, elevator penthouses, domes which do not contain usable space, water towers, and smokestacks may be of any height which does not conflict with airport requirements.

B. Front Yard Regulations:

1. There shall be a front yard having a depth of not less than thirty (30) feet, except where the lot fronts on a major thoroughfare the front yard shall have a depth of fifty (50) feet.

2. Where the district is adjacent to or across the street from a residential district, there shall be a front yard having a depth of not less than fifty (50) feet.

C. Side Yard Regulations:

1. There shall be a side yard on each side of a building, each yard having a width of not less than fifteen (15) feet, except:



- a. Where the district abuts a residential district, the side yard shall have a width of not less than fifty (50) feet and shall ~~contain a solid fence or a~~ vegetative screening.

D. Rear Yard Regulations:

- 1. There shall be a rear yard having a depth of not less than thirty (30) feet, except:

- a. Where the district abuts a residential district, there shall be a rear yard having a depth of not less than fifty (50) feet and shall contain a solid fence or vegetative screening.

- E. Lot Area Regulations: Every individual lot, site, or tract shall have an area of not less than twenty thousand (20,000) square feet.

- F. Minimum District Area Regulations: No, I-1 District shall be established on any tract containing less than ten (10) acres in single ownership or other unified control. This requirement shall not apply where the tract abuts an existing industrial district.

- G. Lot Coverage Regulations: Not more than fifty (50) percent of the total area of a lot shall be covered by buildings.

**SUBDIVISION 5. PERFORMANCE STANDARDS.**

A. Noise, Smoke, Dust, Fumes or Gases, Sewer and Water Discharge:

- 1. The City hereby adopts by reference all State of Minnesota standards in regard to pollution control, to include noise abatement standards, dust, fumes or gases sources, and sewer and water discharge standards.
- 2. In order to ensure compliance with said performance standards, the City Council may require the owner or operator of any permitted use to have made such investigations or tests as may be required to show adherence to the performance standards. Such investigation or tests as are required shall be carried out by an independent testing organization selected by the owner or operator and approved by the City. Such investigations or testing shall be ordered by the owner or operator. The cost of same shall be paid by the owner or operator.

B. Odors: No odors shall be detectable beyond the limits of the property.

- C. Exterior Lighting: Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and as differentiated from general illumination, shall not be visible beyond the limits of the property.

- D. Vibration: No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour.



## **SUBDIVISION 6. PARKING.**

- A. Off-street parking shall be provided on the premises, exclusive of required yards, for uses as follows:
1. Wholesale business establishments and storage or warehouse establishments: One (1) off-street parking space for each employee on the major shift plus one (1) off street parking space for each company motor vehicle when customarily kept on the premises, plus sufficient off-street parking space for delivery and pickup vehicles servicing the facility.
  2. Manufacturing or processing plant: One (1) off-street parking space for each employee on the major shift plus one (1) off-street parking space for each company motor vehicle when customarily kept on the premises plus sufficient off-street parking space for delivery and pickup vehicles servicing the facility.

## **SECTION 13: I-2 GENERAL INDUSTRIAL DISTRICT.**

### **SUBDIVISION 1. PURPOSE.**

The I-2 District is intended for general industrial uses which, due to their size and nature, would not be appropriate in the I-1 District.

### **SUBDIVISION 2. PERMITTED USES.**

Within an I-2 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

- A. Cartage and express facilities, and railroad rights-of-way.
- B. Storage and warehousing facilities; wholesale business and office establishments.
- C. Bottling establishments.
- D. Building materials sales and storage establishments.
- E. Radio and television towers and stations; electric light or power generating stations.
- F. Engraving, printing, publishing, cartographic, and bookbinding establishments.
- G. Dry cleaning, dyeing and laundering establishments.
- H. Electrical and electronic manufacturing establishments; electrical service shops.
- I. ~~Medical, dental, and optical~~ Laboratories.
- J. Public utility structures and governmental buildings.
- K. Jewelry, camera, and photographic manufacturing establishments.
- L. Blacksmith Shops.
- M. Creameries.
- N. Contractor's offices, shops, yards and storage facilities for plumbing, heating, glazing, painting, paperhanging, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.
- O. Freight and transportation terminals, including airports.
- P. Fuel and ice sales and storage facilities.

- Q. Garages for storage, repair, and servicing of motor vehicles and farm implements.
- R. Gasoline and oil bulk stations and distributing plants.
- S. Highway maintenance shops and yards.
- T. Monument works.
- U. Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanges, police or fire stations, elevated tanks, and waterworks.
- V. Manufacturing, processing, storage, servicing, and testing establishments.
- W. Accessory uses as follows: customarily incident to the above permitted uses per Section 17.
- X. Signs: per Section 18
  - ~~1. Accessory uses, except signs, customarily incidental to the above permitted uses.~~
  - ~~2. Signs: per Section 18 of this Ordinance.~~

### **SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.**

Within an I-2 District, buildings or land may be used for one (1) or more of the following uses if granted a conditional use permit:

- A. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, goods, or products similar to those listed in Section 9, Subdivision 2 the permit use section and which comply with the performance standards of this district.
- B. Extraction, processing, or storage of sand and gravel, stone, or other raw materials.
- C. Retail and service establishments consistent with the operation of a general industrial district.
- D. Junk yards as regulated in Section 17, Subdivision 5 per Section 17 subdivision 12
- E. Sanitary landfills.

### **SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.**

- A. Height Regulations: No structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. three (3) stories or thirty-five (35) feet in height.
- B. Yard Regulations:
  - 1. No building shall be located within twenty-five (25) feet of any residential district.

2. Except for railroad loading areas, no parking or loading space shall be located within twenty-five (25) feet of any residential district.
3. Any open storage of materials or open loading areas shall be located or screened so as not to be visible from any residential district.

#### **SUBDIVISION 5. PERFORMANCE STANDARDS.**

**A. Noise, Smoke, Dust, Fumes or Gases, Sewer and Water Discharge:**

1. The City hereby adopts by reference all State of Minnesota standards in regard to pollution control, to include noise standards, dust, fumes or gases sources, and sewer and water discharge standards instituted to protect the health and welfare of the general public.
2. In order to ensure compliance with said performance standards, the City Council may require the owner or operator of any permitted use to have made such investigations or tests as may be required to show adherence to the performance standards. Such investigation or tests as are required shall be carried out by an independent testing organization selected by the owner or operator and approved by the City. Such investigations or testing shall be ordered by the owner or operator. The cost of same shall be paid by the owner or operator.

**B. Exterior Lighting:** Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and as differentiated from general illumination, shall not be visible beyond the limits of the property.

**C. Vibration:** No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour. This standard shall not apply to vibration created during the process of construction.

## **SECTION 14: P-I PUBLIC AND INSTITUTIONAL DISTRICT.**

### **SUBDIVISION 1. PURPOSE.**

The purpose of the P-I Public and Institutional District is to provide for uses of a public or institutional nature. Public/institutional district uses are public services that are typically, but not always, on a not-for-profit basis as opposed to the sale of goods or services. Such uses include local, state, and federal government facilities, places of worship, and public educational facilities. Lands devoted to public/institutional use are usually owned by public entities but may be privately owned.

### **SUBDIVISION 2. PERMITTED USES.**

The following are permitted uses within the P-I Public and Institutional District:

- A. City, state, and federal governmental facilities such as administrative offices, service buildings, and postal offices.
- B. Libraries, community centers, museums, and public art galleries.
- C. Fire stations, police stations, and public works facilities.
- D. Public parks and recreational areas.
- E. Religious institutions or places of worship limited to worship and related social events or educational facilities.
- F. Hospitals, nursing homes, and medical clinics.
- G. Public educational facilities.
- H. Cemeteries.
- I. Public utilities and services.
- J. Publicly owned parking lots as a principal use.

### **SUBDIVISION 3. CONDITIONAL USES.**

The following are conditional uses within the P-I Public and Institutional District:

- A. Uses deemed by Planning Commission and approved by City Council the are similar is scope to permitted uses in this Section. The Planning Commission and City Council approval shall be based upon but not limited to the following factors:  
~~Uses deemed by the City Council to be similar to permitted uses listed under Subdivision 2 of this Section provided the City Council considers possible adverse effects of the proposed events or activity. The City Council's decision shall be based upon (but not limited to) the following factors:~~

1. Consistency with the Comprehensive Plan.
2. Compliance with applicable facility plans.
3. ~~That~~ the establishment, maintenance or operation of the proposed use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety or welfare.
4. The proposed use, ~~event or activity~~ will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
5. The proposed use, ~~event or activity~~ shall conform to the applicable regulations of the district in which it is located and all other applicable provisions of the City Code.

#### **SUBDIVISION 4. INTERIM USES.**

The following are interim uses within the P-I Public and Institutional District:

- A. Temporary Outdoor storage that lasts longer than 90 days.
- B. Temporary buildings for construction purposes for a period of time determined by the Planning Commission with approval from City Council. ~~of twelve (12) months.~~

#### **SUBDIVISION 5. ACCESSORY USES.**

The following are accessory uses within the P-I Public and Institutional District:

- A. Accessory uses incidental and customary to uses allowed as permitted per section 17 through conditional, interim, and administrative permits in this Section.
- B. Off-street parking and loading.
- C. Signs as regulated by Section 18 ~~of this Ordinance.~~
- D. Accessory uses subordinate to educational, government, and/or public facilities such as:
  1. Playgrounds.
  2. Athletic facilities.
  3. Portable buildings.
  4. Office and maintenance buildings.
  5. Field houses.

6. Satellite educational facilities resulting from specific subjects taught at an educational institution such as greenhouses, grow houses, gardens, independent laboratories, construction laboratories.
7. Satellite training facilities.
8. Similar uses considered reasonably beneficial to educational, governmental, and/or public purposes providing they are consistent with the Comprehensive Plan.

## **SUBDIVISION 6. PERFORMANCE STANDARDS.**

### **A. Lot Requirements.**

1. Minimum Lot Size: None.
2. Lot Width Requirement: None.
3. Minimum Frontage on a Public Street: At least twenty-five (25) feet of a lot must front on a public street.

### **B. Front, Side and Rear Yard Requirements:**

1. Front yard setback shall be thirty (30) feet or the average setback of structures on abutting lots.
2. Side yard setback shall be fifteen (15) feet or the average setback of structures on abutting lots, ~~plus one half (1/2) foot for every one (1) foot of structure height in excess of three (3) stories or thirty five (35) feet whichever is less.~~
3. The rear yard setback shall be twenty (20) feet, except that existing lots of record not abutting residential uses may be reduced to five (5) feet and existing lots of record abutting a residential use may be reduced to ten (10) feet provided screening is incorporated into the site design.
4. ~~Required Side/Rear Yard Screening: Where a P-I use abuts property guided for single or two (2) family residential use as illustrated on the Future Land Use Map contained in the Comprehensive Plan or is separated by an alley from a single or two (2) family residential use as illustrated on the Future Land Use Map contained in the Comprehensive Plan, a landscaped buffer shall be provided. It is the objective of the landscaped buffer to lessen, rather than completely eliminate land use conflicts between such uses. It is not expected that landscaped buffers will totally screen such uses. It is expected that the landscaped buffer design elements identified below will provide immediate lessening of land use conflicts and such buffering will be enhanced over time as landscaping matures. Landscaped buffers may include a combination of elements including setback distances as separation, tree and shrubs, solid fencing, and/or berming. It is encouraged that existing~~

topography and vegetation be included in the design of the landscaped buffer as approved by the City. Retention of existing mature trees is strongly encouraged in meeting the requirements of this Section. Rear and side yard landscaped buffers shall have a minimum depth of ten (10) feet. Required screening shall not interfere with snow storage or sight lines at intersections but may encroach into required setbacks.

- C. Maximum Building Height: Maximum building height is forty (40) feet or the average height of the principal structures on adjacent lots on the same side of the street, whichever is less.
- D. Lot Coverage: Not more than seventy-five (75) percent of a lot shall be occupied by structures.
- E. Screening: When the P-I district abuts property that is Single or Two Family Residential use or is by an alley from a Single or Two Family use will require a landscaped buffer. Landscaped buffers may include a combination of elements, i.e., shrubs, solid fencing, and/or berming. It is encouraged that existing topography and vegetation be included in the design of the landscaped buffer as approved by the Planning Committee with approval from the City Council. Rear and side yard landscaped buffers shall have a minimum depth of ten (10) feet. Required screening shall not interfere with snow storage or sight lines at intersections but may encroach into required setbacks.
- F. Other Building/Development Requirements:
  - 1. Development/site plan review is required.
  - 2. Any lights used for exterior illuminations shall be directed away from adjacent properties.
  - 3. Parking lots abutting residential uses shall be screened so as to reasonably dilute headlights from trespassing onto said residential property.



## **SECTION 2: RULES and REGULATIONS.**

### **SUBDIVISION 1. RULES.**

For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "lot" shall include the word "plot" and the word "shall" is mandatory and not discretionary.

### **SUBDIVISION 2. DEFINITIONS.**

For the purpose of this Ordinance, certain terms and words are defined as follows:

**Accessory Building:** A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

**Accessory Dwelling Unit:** A room or set of rooms with cooking, sleeping, and sanitation facilities located on the same lot as a single family detached dwelling or twin home. Accessory dwelling units are smaller in area and intensity as compared to the main (principal) dwelling to which it is accessory.

**Agriculture:** The growing of soil crops in the customary manner on open tracts of land, the raising of animals or poultry, including incidental retail selling by the producer of the product raised on the premises, providing customer parking space is furnished off the public right-of-way.

**Alley:** A public thoroughfare less than thirty (30) feet in width which provides secondary access to the abutting property.

**Apartment:** A part of the building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence for one (1) family or an individual and is equipped with cooking facilities.

**Apartment Building:** Three (3) or more apartments grouped in one (1) building.

**Automobile Wrecking:** See Junk Yards.

**Boarding House:** Any dwelling other than a hotel or motel where lodgings and meals for compensation are provided for five (5) or more persons, for a long-term basis, meaning other than a day-to-day rental agreement.

**Building:** Any structure for the shelter, support or enclosure of persons, animals, or property of any kind. When separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

**Building Height:** The vertical distance from the average of the highest and lowest point of that portion of a lot covered by a building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**Building Line:** An imaginary line on a development site corresponding with the series of points where an exterior building wall meets the grade of the Earth.

**City Council:** Refers to the City Council of Arlington.

**Conditional Use:** A use of land not normally allowed in a particular zoning district, but which may be allowed under certain conditions.

**Dwelling:** Any building or portion thereof which is designed or used exclusively for residential purposes including permanent provisions for living, sleeping, eating, cooking, and sanitation.

~~Dwelling, Apartment. See Dwelling, Multiple Family.~~

**Dwelling, Duplex:** A structure containing two separate dwelling units sharing a common entry.

**Dwelling, Multiple Family:** A structure containing more than four separate dwelling units sharing a common entry and hallways.

**Dwelling, Quadraplex:** A structure containing four separate dwelling units sharing a common entry.

**Dwelling, Single Family Attached:** A single-family dwelling attached to two or more one-family dwellings by common roof, wall, or floor. This definition includes twin homes and townhomes. Single Family Attached Dwellings may have a common lot line or may be a common interest community with common spaces and individually owned dwelling units.

**Dwelling, Single Family Detached:** A dwelling unit that is not attached to any other dwelling unit by any means and which does not have any roof, wall, or floor in common with any other dwelling unit.

**Dwelling, Triplex:** A structure containing three separate dwelling units sharing a common entry.

**Dwelling, Townhome:** Two or more dwelling units within one structure sharing a common roof, vertical wall, or floor with each unit having separate ingress and egress.

**Dwelling, Twin Home:** A single family attached dwelling with two dwelling units within one structure divided by a common vertical wall.

~~Dwelling, Two Family. See Dwelling, Duplex.~~

**Family:** One (1) or more persons related by blood, marriage or adoption, or state licensed family, or not more than five (5) persons, including owner-occupant, not so related occupying a dwelling and living as a single housekeeping unit, as distinguished from occupying a boarding house private club or hotel.

**Flood Plain:** The areas adjoining a watercourse or lake which have been or hereafter may be covered by a regional flood. Flood plain areas within the City of Arlington shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.

**Floodway:** The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

**Garage, Private:** A garage with a capacity of not more than four (4) power driven vehicles for storage only and which is erected as an accessory building. No commercial activity is to be conducted in any private garage.

**Garage, Public:** Any premises except those described as a private or community garage used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair, or kept for remuneration, hire or sale.

**Home Occupation:** ~~Any occupation of a service character which is clearly~~ A Residential dwelling or an attached accessory building on the same zoning lot, for licensed commercial activities, the activities must be secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use. The occupation shall be conducted only by members of a family residing in the dwelling and in connection with which there is kept no stock in trade or commodity for sale on the premises.

**Hotel:** Any building or portion thereof where lodging is offered to transient guest for compensation and in which there are more than five (5) sleeping rooms in individual rooms or apartments.

**Junk Yard:** Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled, including but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products from wrecking of vehicles.

**Laboratory:** A room or building equipped for scientific experiments, research, or teaching, or for the manufacture of drugs or chemicals.

**Lodging house:** A building or premises where lodging is provided for compensation of five (5) or more persons, but not exceeding twenty-five (25) persons.

**Lot:** One (1) unit of a recorded plat or subdivision occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this Ordinance and having frontage on a public street.

**Lot Area:** The lot area within the lot lines.

**Lot Area Per Family:** The lot area per family is the lot area required by this Ordinance to be provided for each family in a dwelling.

**Lot, Double Frontage:** An interior lot having frontage on two (2) streets.

**Lot, Interior:** A lot other than a corner lot.

**Lot Lines:** The lines bounding a lot as defined herein. When a lot line abuts on a street, avenue, park, or other public property except an alley, such line shall be known as a street line, and when a lot line abuts on an alley, it shall be known as an alley line.

**Lot, Corner:** A lot situated at the intersection of two (2) or more streets.

**Lot, Depth:** The average distance between the front and rear lot line (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width.)

**Lot, Width:** The horizontal straight-line distance between the side lot lines at the setback line.

**Mobile (Manufactured) Home:** A factory-built structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running

gear and designed to be relocated as a structure or structures used for occupancy without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon will be moved from time to time at the convenience of the owner.

**Modular Home:** A non-mobile housing unit that is fabricated at a factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one (1) family dwelling.

**Motel:** Any building or portion thereof that is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms in individual rooms or units.

**Non-Conforming Use:** A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated, except that such a use is not non-conforming if it would be authorized under a special use permit where located.

**Outlot:** A parcel of land subject to future platting prior to development or a parcel of land which is designated for:

- A. Public or private open space.
- B. Public or private wetland buffers.
- C. Public or private conservation purposes.
- D. Rights-of-way.
- E. Utilities.
- F. Other similar purposes.

Outlots created after June 1, 2018 are deemed unbuildable and no building permit shall be issued for such properties until said outlot is platted. Except that building permits may be issued for Outlots to be used for a specific purpose such as signage or common property under a planned unit development or common interest community as designated in a developer's agreement or other agreement.

**Persons:** Any individual, firm, partnership, limited liability company, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee, or similar representative thereof.

**Premises:** A lot or plot with the required front, side, and rear yards for a dwelling or other use allowed under this Ordinance.

**Sanitary Landfill:** A sanitary landfill according to the American Society of Civil Engineers is a "method" of disposing of solid wastes on land without creating nuisances or hazards to public health and safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operations, or at such more frequent intervals as may be necessary".

**Setback:** The shortest distance between the front lot line and the foundation wall of a building or the allowable building line as defined by the front yard regulations of this Ordinance.

**Story:** That portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is not floor above it, the space between the floor and the ceiling next above it.

**Story-Half:** A story with at least two (2) opposite exterior sides meeting a sloping roof not more than two (2) feet above the floor of such story.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

**Structural Alteration:** Any change or addition to the supporting members of a building such as bearing walls, columns, beams, or girders.

**Swimming Pool:** A permanent or portable structure, which is not completely enclosed within a building, whether below ground level, above ground level or partially above and partially below ground level, intended for non-commercial use as a swimming pool and which exceeds both twenty-four (24) inches in depth and five thousand (5,000) gallons in capacity.

**Theaters:** A building, part of a building, or outdoor area for housing dramatic performances or stage entertainments, or for showing movies.

**Use:** The purpose for which land or premises of the building thereon is designated, arranged, or intended, or for which it may be occupied or maintained.

**Use, Accessory:** A use incidental or accessory to the principal use of a lot or building located on the same lot as the accessory use.

**Yard:** An open space between a building and any lot line which is open to the sky obstructed by any permanent or temporary uses or structures.

**Yard, Front:** A yard extending across the full width of the lot and lying between the front lot line and the front building line.

**Yard, Rear:** A yard extending across the width of the lot and lying between the rear lot line and the nearest line of the principal building.

**Yard, Side:** A yard extending from the front lot line to the rear lot line and lying between the side lot line and nearest line of a building.

**Zoning Administrator:** The City Official appointed by the City Council from time to time to administer the Zoning Ordinance, to include monitoring compliance with the Ordinance, maintaining the City of Arlington Zoning Map, and administering the application process for building permits, conditional use permits and variance requests and all other administrative matters pertaining to the Zoning Ordinance.

## **SECTION 15 : PLANNED UNIT DEVELOPMENT DISTRICT.**

### **SUBDIVISION 1. PURPOSE AND INTENT.**

The purpose of this Section is to provide for flexibility in site design requirements when exceptional quality community designs result in planned developments that: preserve environmentally significant and/or environmentally sensitive areas; provide exceptional or unique open space amenities; incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; conforms to the goals and policies of the Comprehensive Plan; and, provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. Throughout this Ordinance, "PUD" shall mean the same as "planned unit development."

### **SUBDIVISION 2. DEFINITIONS.**

**Development, Greenfield** shall mean development proposed for sites not previously serviced by centralized water, sanitary sewer, or storm sewer service.

**Planned Unit Development (PUD)** shall refer to one (1) or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose density or intensity transfers, density or intensity increases, mixing of land uses, or any combination thereof, and which may not correspond in lot size, bulk, or type of dwelling or building, density, intensity, lot coverage, parking, required common open space, or other standards to zoning use district requirements that are otherwise applicable to the area in which it is located. Density herein refers to the number of dwelling units (residential) or building square footage (non-residential) as a portion of the entire developable site area; intensity refers to the intensity of building coverage as a percentage of the lot size.

**PUD, Residential Cluster** shall mean a residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of preserving environmentally significant or sensitive areas under Subdivision 3 (A) of this Section, preserving architectural or historically important existing structures under Subdivision 3 (D) of this Section, or the elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subdivision 3 (E) of this Section.

**PUD, Residential Open Space** shall mean a residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of preserving in perpetuity or establishing and preserving in perpetuity open space amenities under Subdivision 3 (B) of this Section.

**PUD, Residential Amenity** shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of providing for a unique scenic or recreational amenity or facility under Subdivision 3 (G) of this Section.

**PUD, Residential Mixed Use** shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of providing for mixed housing types and values combined with site amenities under Subdivision 3 (C) of this Section.

**PUD, Commercial Mixed Use** shall mean a transfer of allowable net density from one (1) portion of the PUD to another as a means of combining commercial storefronts and residential dwelling units within a single structure under Subdivision 3 (F) of this Section, or the combination of commercial and residential uses on separate parcels within a master planned area which eliminates blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subdivision 3 (E) of this Section.

**Project Area, Gross** shall mean the total area proposed to be developed as a PUD.

**Project Area, Net** shall mean the remaining project area after subtracting from the gross project area all areas proposed to be used for public streets, all stream areas, public waters, wetlands (National Wetland Inventory), preserved floodplains, steep slopes, all floodways, and other natural resource areas in which development is prohibited under the City's Zoning Ordinance or Subdivision Ordinance.

### **SUBDIVISION 3. DEMONSTRATED BENEFIT TO THE PUBLIC REQUIRED.**

Planned unit developments shall demonstrate at least one (1) of the following benefits to the public. The applicant shall submit factual evidence to support an intended public benefit(s) will result from the planned development. The applicant bears the burden of proving a public benefit(s) exists:

- A. The preservation in perpetuity of environmentally significant and/or environmentally sensitive areas including flood plains, ravines, shorelands, public water basins, wetlands (National Wetland Inventory), High Island Creek bank, prime agricultural soils, hydric soil, pre-settlement vegetation, and resources identified within the Sibley County Biological Survey. Preservation of such areas will require the establishment and implementation of best management practices to protect and enhance said environmentally significant and/or sensitive areas. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.
- B. The preservation in perpetuity or establishment and preservation in perpetuity of exceptional quality open space amenities such as those which provide: for the establishment or protection of scenic views/visual amenities; for the establishment or linkage of habitat areas, wildlife corridors, or greenway corridors especially adjacent to High Island Creek; for linkage to existing or planned park or linear pathway facilities; and/or for preservation, protection and enhancement of significant mature stands of vegetation. An open space preservation plan and a maintenance plan shall be established and implemented. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.
- C. The creation of a master planned community within one (1) development featuring a variety of housing types (i.e. single family, attached; single family, detached; and/or apartments) and/or values (i.e. affordable, market rate, luxury rate) combined with: above average open space and/or construction of a unique or scenic recreational facility (i.e. golf course, equestrian facility, artificially constructed lake [but not a required stormwater facility] and similar facilities) and/or commercial uses in transitional zoning areas.
- D. The preservation of buildings that are architecturally or historically significant or significantly contribute to the character of the City. Such determination as 'significant' or

'contributing to the character of the City' shall be defined by a professional historian, a representative from the State Historic Preservation Office, a representative from MnDOT Cultural Resources Department, or by listing on the National Register of Historic Places.

- E. The elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation. A finding of 'blighted area' shall be made by the City Council with Federal Small Cities Development Program guidelines used as a reference. A finding of 'deteriorated structure' shall be made by the City Building Official. A finding of an incompatible use shall be made by the City Zoning Administrator.
- F. The creation of mixed uses within a single structure which combine compatible commercial storefronts with residential units (above or behind) within the Central Business District. "Compatibility" of proposed commercial and residential uses shall consider hours of operation, separation of space, building construction, noise/odor/vibration levels, and electromagnetic interference.
- G. The creation of a master planned community in conjunction with enhanced amenities such as the construction of a unique or scenic recreational facility or amenity such as a golf course, an equestrian facility, an artificially constructed lake (but not a required stormwater facility) and similar facilities. Such amenities shall be held in perpetuity. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.

#### **SUBDIVISION 4. PLANNED UNIT DEVELOPMENT AS AN OVERLAY DISTRICT.**

- A. Planned unit developments shall be superimposed over existing zoning classifications.
- B. Allowable uses within the PUD shall be those uses allowed in the underlying zoning classification.
- C. Maximum density standards of the underlying zoning district(s) apply, except that:
  - 1. Allowable net densities may be transferred from one (1) area of the subdivision and clustered in another area of the same subdivision meaning that lots within the PUD may vary in size but the total of lots may not exceed those allowed as calculated under this Section using the underlying zoning classification as a base.
  - 2. A density increase may be allowed when a public benefit under Subdivision 3 (A) or Subdivision 3 (B) or Subdivision 3 (C) or Subdivision 3 (G) is combined with a public benefit under Subdivision 3 (D), Subdivision 3 (E), or Subdivision 3 (F) of this Section. Such density increases shall not be greater than one hundred thirty-three (133) percent of that allowed by the underlying zoning district(s).
  - 3. The Zoning Administrator shall calculate the number of units allowed within a PUD. To make this calculation the Zoning Administrator shall exclude from the project area acreage required to be used for street right-of-way, utility easements, stormwater ponding, and other required improvements for subdivisions. The acreage available after making the aforementioned exclusions shall be the 'net project area.' The Zoning



Administrator shall calculate the number of units available by dividing the net project area by the lot size required by the underlying zoning that applies to the project.

**SUBDIVISION 5. TYPES OF PLANNED UNIT DEVELOPMENTS ALLOWED – WHERE PERMITTED.**

- A. PUD, Residential Cluster** shall be allowed within all residential zoning classifications. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- B. PUD, Residential Open Space** shall be allowed within all residential zoning classifications providing the entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful open space and development opportunities. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- C. PUD, Residential Amenity** shall be allowed within all residential zoning classifications providing the entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful space for special amenities and development. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- D. PUD, Residential Mixed Use** shall be allowed within all residential zoning classifications providing the entire project area is at least twelve (12) acres in size. The size limitation is intended to retain adequate space creating superior amenities and a mix of residential development. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- E. PUD, Commercial Mixed Use** combining commercial storefronts and residential dwelling units within a single structure under Subdivision 3 (F) of this Section shall be allowed within the Central Business District. Commercial mixed use PUD's proposing the combination of commercial and residential uses on separate parcels within a master planned area which eliminates blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subdivision 3 (E) of this Section shall be allowed within the Central Business District, the R-2 District, or any combination of the two (2). As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.

- F. A PUD may be comprised of one (1) or more of the above types, subject to compliance with allowable uses within the underlying zone(s) in which the PUD is proposed to be located, the standards of A – E above, and the all other requirements of this Section.
- G. Prohibited Planned Unit Developments: The following types of planned unit developments and any type not identified as reasonably similar to those expressly allowed are prohibited from qualifying for PUD overlay status and must conform to the standards of the City of Arlington Zoning and Subdivision Ordinances:
  - 1. Commercial or industrial PUD proposing subdivision of property.
  - 2. Non-residential and residential uses combined and proposing an increase in density. This standard shall not prohibit density transfers within proposed non-residential/residential mixed use PUD and/or mixed residential/non-residential PUD within transitional areas (i.e. areas guided to non-residential use transitioning to areas guided for higher density residential use transitioning to areas guided toward lower density residential use) as illustrated within the Comprehensive Plan Future Land Use Map.
  - 3. Commercial mixed use PUD in greenfield areas; such PUD's are reserved for redevelopment projects within the Central Business District and/or the R-2 District.

#### **SUBDIVISION 6. GENERAL REQUIREMENTS FOR ALL PUD'S.**

- A. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed as to minimize undesirable impact of the PUD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PUD.
- B. Common areas, open space, amenities, and/or preservation areas shall be held in perpetuity through: legal common ownership by all owners in the PUD, placement in a conservation or similar easement, or dedicated to the public use with approval of the City Council.
- C. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be useable for its proposed purpose.
- D. To prevent the appearance of excessive structural bulk, a single structure shall not have a single exterior wall longer than forty (40) feet without an offset in the exterior wall height or depth. The employment of windows and doors may be substituted for offsets in wall height or depth if approved by the Zoning Administrator and provided such windows/doors are designed in a manner which is substantially consistent with the windows/door styles employed in the building front (entry).
- E. Building Height: Building height shall be governed by the requirements of the underlying zone district classification.
- F. All permitted, permitted accessory and/or conditional uses contained in the underlying zoning district shall be treated as permitted, permitted accessory and conditional uses in

PUD overlay district. Uses not listed as permitted or conditional in a specific district shall not be allowed in a PUD unless it is found that the use is complimentary to the functionality of the development and the other uses found therein.

- G. Off-street parking and loading space shall be provided in each PUD in the same ratios for types of buildings and uses as required in the underlying zoning district. However, the City may reduce the number of parking spaces required provided PUD applicants submit information demonstrating a reduced need for parking facilities (i.e. senior housing complex, PUD's featuring joint parking facilities, parking study, proximity to and availability of bus service coupled with transit-friendly design, etc.).
- H. The streets connecting with any planned unit development must be of sufficient size and character to accommodate the traffic to be produced by the project. The streets connecting with any PUD shall not significantly alter the character of existing residential neighborhoods. Evaluation of the proposal pursuant to this Section shall include consideration of the following criteria:
  - 1. The increase in traffic which will be generated by the development.
  - 2. The present width and condition of streets to be affected.
  - 3. Presence or absence of improved sidewalks.
  - 4. Potential impacts upon the value of surrounding properties.
  - 5. Anticipated effect upon availability of parking.
  - 6. Existence of a particular conflict between vehicular and pedestrian traffic.
  - 7. The street type designated in the Comprehensive Plan.
- I. The required right-of-way width for streets with a functional classification of 'local' may be reduced up to thirty (30) percent provided the proposed width is adequate to accommodate pavement width and other improvements required within the right-of-way. The minimum paved width available for vehicular travel shall not be less than twenty-four (24) feet so as to provide adequate clearance for emergency vehicles. Parking may be restricted on one (1) or both sides streets with reduced right-of-way widths.
- J. Private Streets: Private streets may be allowed within PUDs provided:
  - 1. An easement for the full right-of-way width required by the Subdivision Ordinance is provided.
  - 2. The City Engineer and City's emergency service providers (Fire, Ambulance and Police) review the PUD to determine adequacy of proposed pavement width. The City may require on-street parking be prohibited to allow for adequate width and access by emergency service providers.
  - 3. A legal common ownership document providing for establishment and maintenance of an escrow account as approved by the City for all road construction and maintenance is in effect and recorded.

4. All potential property owners are made aware in writing of the fact that the streets must be maintained privately by all persons party to the legal common ownership document and that the City is not responsible for street maintenance, snow plowing and the like.

#### **SUBDIVISION 7. SUBDIVISION REQUIREMENTS.**

The approval of a subdivision shall be required of all projects which involve or contemplate the platting or replatting of land. Property currently described by metes and bounds shall be platted if contemplated for development as a PUD. The procedures set forth in the Subdivision Ordinance shall be followed concurrently with the PUD standards. The approved final development plan shall be a binding site plan. A lease of land not involving a residential structure shall be exempt from the Subdivision Ordinance if the lease conforms to the final development plan.

#### **SUBDIVISION 8. PRE-APPLICATION/INFORMATIONAL MEETING AND CONCEPT PLAN REQUIRED.**

- A. Informational Meeting: Prior to filing an application for preliminary PUD plan approval, the applicant of the proposed PUD shall arrange for and attend an informational meeting with City staff. At such conference, the applicant shall be prepared to generally describe their proposal for a PUD. The primary purpose of the meeting shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the conformity to the provisions of this Ordinance before incurring substantial expense in the preparation of detailed plans, surveys, and other data.
- B. Following a pre-application/informational meeting but prior to submitting an application for preliminary plan/plat approval, the applicant for a proposed PUD shall submit to the City a general concept plan.
  1. Purpose: The general concept plan provides an opportunity for the applicant to submit a plan to the City showing their basic intent and the general nature of the entire development without incurring substantial cost. This concept plan serves as the basis for the informational meeting so that the proposal may be considered at an early stage. The following elements of the proposed general concept plan represent the immediate significant elements which the City shall review and for which a decision shall be rendered:
    - a. Type of PUD contemplated.
    - b. Overall maximum PUD density range.
    - c. General location of major streets and pedestrian walkways.
    - d. General location and extent of public and/or common open space.
    - e. Preservation areas.
    - f. General location of residential and non-residential land uses with approximate intensities of development.

- g. Staging and timetable of development.
- h. Other special criteria for development.

**SUBDIVISION 9. THIS SUBDIVISION RESERVED FOR FUTURE USE.**

**SUBDIVISION 10. PRELIMINARY PUD AND FINAL PUD PLAN APPROVAL REQUIRED.**

- A. Each PUD shall require preliminary and final plan approval.
- B. If land subdivision is requested in conjunction with the PUD plan, both preliminary and final PUD approvals shall be processed concurrently with the platting procedures set forth in the City's Subdivision Ordinance. Required data, parkland/fee in-lieu of parkland dedication, design standards and required improvements shall be the same as per a conventional subdivision and as set forth within the City's Subdivision Ordinance. In addition to the data requirements itemized within the Subdivision Ordinance the application shall also include information necessary to process the PUD preliminary and final plan(s) as contained within this Section. The Zoning Administrator may waive requirements determined to be redundant.
- C. The preliminary development plan and the final development plan may be combined and together processed through review as a final development plan. In addition the applicant may file a concurrent rezone application in accordance with the procedures set forth in the zoning ordinance.
- D. Preliminary Plan, Process.
- E. Final Plan, Process.

**SUBDIVISION 11. PHASED DEVELOPMENT.**

Development of the project may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review. A map showing all property owned or controlled by the developer which is contiguous to the development site or which is within the area determined by the City to be relevant for comprehensive planning and environmental assessment purposes, together with a conceptual plan of said properties' eventual development through all potential phases shall be submitted with the application for the first phase. The developer is not responsible for providing a conceptual plan for contiguous or nearby property which is not owned or controlled by the developer. The conceptual plan shall conform to the purposes of this Section and shall be used by the City to review all phases of the development. All phases of the development shall conform to the conceptual plan, all conditions of approval, and applicable regulations.

## **SUBDIVISION 12. PRELIMINARY PUD'S – CONTENTS OF COMPLETE APPLICATION.**

- A. The applicant shall file with the City a preliminary development plan (ten {10} large scale copies and one {1} 11"x17" reproducible copy).
- B. The data submittal requirements of the following Table entitled "Table of Data Submittal Requirements" for preliminary PUD Plans shall apply.
- C. Text describing conditions or features which cannot be adequately displayed on maps or drawings.
- D. A narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan.
- E. A narrative stating how the proposed plan impacts adjacent property owners.
- F. A narrative describing in factual terms the public benefit of the proposed PUD.
- G. A narrative describing proposed operation/maintenance of the development including open areas, preservation areas, stormwater features and recreational facilities resulting from the subdivision.
- H. Information normally required within the underlying zoning classification relating to site plan review.
- I. Other information required by the City.
- J. Table of Data Submittal Requirements.

**TABLE OF DATA SUBMITTAL REQUIREMENTS**

X = required at indicated review stage

G = less detail required (conceptual or general)

<b>Item Description</b>	<b>Concept Plan</b>	<b>Preliminary PUD Plan</b>	<b>Preliminary Plat</b>	<b>Final PUD Plan</b>	<b>Final Plat</b>
<b>General Information</b>					
Name, address of owner and applicant.	X	X	X	X	X
Name, license number, address, and signature of persons involved in preparation of the plan/plat (i.e. architect, surveyor, engineer).	X	X	X	X	X
Title block.	X	X	X	X	X
Key map showing location of tract with reference to surrounding area.	X	X	X	X	X
A listing of required and proposed performance standards including lot area, width, depth, setbacks,	G	X	X	X	X

### TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

Item Description	Concept Plan	Preliminary PUD Plan	Preliminary Plat	Final PUD Plan	Final Plat
lot coverage, and required parking.					
North arrow and scale.	X	X	X	X	X
Proof taxes are current.		X	X	X	X
Appropriate certification blocks.			X		X
Existing and proposed legal descriptions.			X		X
Acreage of tract.	G	X	X	X	X
Location and dimensions of existing and proposed streets.	G	X	X	X	X
Proposed lot lines and area of lots in square feet.		X	X	X	X
Existing or proposed deed restrictions or covenants.	X, existing only	X	X	X	X
Existing or proposed easements or land reserved for or dedicated to public use.	X	X	X	X	X
Proposed development staging or timeline for development.	G	X	X	X	X
List of required regulatory approvals or permits.		X	X	X	X
Requested or obtained variances.	G	X	X	X	X
Requested or obtained rezoning.	G	X	X	X	X
Payment of application fee.		X	X	X	X
<b>Setting &amp; Environmental Information</b>					
Property boundaries of all parcels within 200' of the subject parcel.		X	X	X	X
Existing streets, water courses, flood plains, wetlands, or other environmentally sensitive areas on and within 200' of the subject site.	G	X	X	X	X
Existing rights-of-way and/or easements on and within 200' of the subject site.	G	X	X	X	X
Topographical features of the subject property.	G	X	X	X	X
Existing and proposed contour intervals for subject property and within 200' of the subject site.		X	X	X	X
Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features.	G	X	X	X	X

### TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

Item Description	Concept Plan	Preliminary PUD Plan	Preliminary Plat	Final PUD Plan	Final Plat
Existing system of drainage of subject site.		X	X	X	X
Drainage area map.		X	X	X	X
Drainage calculations.		X	X	X	X
Perc tests.		X	X	X	X
<b>Improvements &amp; Construction Information</b>					
Proposed utility infrastructure plans, including sanitary sewer, water, and storm water management.		X	X	X	X
Soil erosion and sediment control plans.		X	X	X	X
Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations.		X	X	X	X
Construction details.		X	X	X	X
Road and paving cross sections and profiles.		X	X	X	X
Proposed street names.		X	X	X	X
New block and lot numbers.		X	X	X	X
Lighting plan and details.		X	X	X	X
Landscape plan and details.		X	X	X	X
Site identification signs, traffic control signs, and directional signs.		X	X	X	X
Vehicular and pedestrian circulation patterns.	G	X	X	X	X
Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.		X	X	X	X
Preliminary architectural plan and elevations.				X	X

### SUBDIVISION 13. PRELIMINARY PUD'S – PROCESS.

- A. Following the pre-application meeting and following review of the concept plan, the applicant shall prepare a request for approval of the preliminary plan for the planned unit development, as provided within this Section. The request shall be filed with the City on an official application form. A fee as provided for by City Council Resolution shall accompany such application.



- B. The applicant shall also submit any necessary applications for variances from the provisions of this or any City land use or Subdivision Ordinance.
- C. The Zoning Administrator shall review the application to determine whether or not the application and required material submissions are complete. The preliminary plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Zoning Administrator determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.
- D. Upon receipt of the completed application as outlined in A – C above, the Zoning Administrator shall set a public hearing for public review of the preliminary plan by the Planning Commission. Notice of the hearing may be a legal or display advertisement and shall consist of a legal property description, description of the request, and shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to the hearing. Requests affecting and located within non-platted areas of the City shall be noticed to all property owners within three hundred fifty (350) feet of the property in question. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.
- E. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.
- F. The Zoning Administrator shall prepare technical reports or cause such technical reports to be created. The Zoning Administrator shall provide general assistance in preparing a recommendation on the action to the Planning Commission. Technical reports may include those from the City Engineer, Building Official, City Attorney, and public or private utility departments, and others.
- G. The Zoning Administrator or the Administrator's designee shall also refer copies of the plan map to the following individuals or bodies:
  - 1. City Engineer.
  - 2. City Attorney.
  - 3. School District.
  - 4. Commissioner of Transportation if the proposed planned unit development includes land abutting an established or proposed trunk highway.
  - 5. County Engineer if the proposed planned unit development includes land abutting a County or County State-Aid Highway.
  - 6. State Commissioner of Natural Resources if the proposed planned unit development adjoins a public body of water.

7. The Watershed District Board, if applicable.
  8. Other City department heads as appropriate.
  9. Park Board.
  10. Planning Commission.
- H. The Park Board, Planning Commission, City Council, and City staff shall have the authority to request additional information from the applicant concerning the proposed planned unit development and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent Sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- I. The Planning Commission shall conduct a public hearing. The applicant or a designated representative thereof may appear before the Commission at the public hearing in order to answer questions concerning the proposed request. Following the closing of the public hearing, the Planning Commission shall take one of the courses of action:
1. Approval of the preliminary plan: as presented – with findings of fact.
  2. Conditional approval of the preliminary plan: conditions for approval and findings of fact itemized.
  3. Denial of the preliminary plan, with findings of fact.
  4. The Planning Commission may, at its discretion and with the approval of the applicant, table the matter pending further information from the applicant that will help it render a recommendation to the City Council. An extension of the preliminary plan review period (i.e. total of one hundred twenty {120} days) may be necessary.
- J. The Zoning Administrator shall notify the applicant of the Planning Commission's recommended action together with the findings of fact for such recommended action and what requirements, if any, will be necessary for the Planning Commission to recommend approval of the plan. The recommended approval of the preliminary plan does not constitute an acceptance of the planned unit development.
- K. Following review by the Planning Commission, the request shall be scheduled for review by the City Council.
- L. City Council Action:
1. The reports and recommendations of City staff, Park Board and the Planning Commission shall be entered in and made part of the permanent written record of the City Council meeting.
  2. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following delivery of an application completed in compliance with

this Ordinance unless an extension of the review period has been agreed upon by the applicant and the City.

3. When the preliminary plan is approved, conditionally approved or denied by the City Council, the findings of fact for such action shall be recorded in the proceedings of the Council and shall be transmitted in writing to the applicant. If the preliminary plan is approved or conditionally approved, such approval shall not constitute acceptance of the final design and layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Ordinance to be indicated on the final plan. The City Council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plan or final plan as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the City.

#### **SUBDIVISION 14. PRELIMINARY PUD'S – CRITERIA FOR APPROVAL.**

- A. Preliminary PUD approval shall be granted by the City only if the applicant demonstrates that:
  1. The proposed project shall not be detrimental to present and potential surrounding land use.
  2. There is a factual and defined public benefit.
  3. Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible.
  4. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, in light of the criteria set forth in the Subdivision Ordinance and the Comprehensive Plan.
  5. Services including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy.
  6. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
  7. The project conforms with the purpose of this Section and the standards prescribed herein.
  8. The project conforms to the Comprehensive Plan.
- B. Conformance with the design standards and required improvements as set forth within the Subdivision Ordinance.

**SUBDIVISION 15. PRELIMINARY PUD'S – MINOR AND MAJOR CHANGES TO AN APPROVED PRELIMINARY PUD PRIOR TO FINAL PLAN APPROVAL.**

- A. A proposed minor change to an approved PUD requires a public hearing and shall be incorporated into the application for final PUD approval, and any notification regarding such final PUD approval shall describe the proposed minor change(s). A "minor change" means any departure from the conditions of preliminary approval which is not a "major change" and includes but is not limited to the following:
  - 1. Revisions to number of dwelling units in a structure.
  - 2. Revisions to number of non-residential structures.
  - 3. Revisions to heights of structures.
  - 4. Revisions to location of internal roads.
  - 5. Revisions similar in nature to those above as determined by the City.
- B. A proposed major change to an approved preliminary PUD shall require reapplication for preliminary PUD approval and any notification regarding such preliminary PUD approval shall describe the proposed major change or changes. A "major change" is any departure from the conditions of preliminary PUD approval which would result in any of the following:
  - 1. Revisions to the approved design concept.
  - 2. Revisions to the approved use(s).
  - 3. An increase in the number of residential dwelling units.
  - 4. An increase in square footage of non-residential structures.
  - 5. A decrease in the amount of landscaping, site perimeter buffering, and open space.
  - 6. An increase in traffic volumes or change in circulation patterns which impacts surrounding development.

**SUBDIVISION 16. FINAL PUD'S – CONTENTS OF COMPLETE APPLICATION.**

- A. Within twelve (12) months following the approval of the preliminary PUD, the applicant shall file with the City a final PUD conforming to the approved preliminary PUD.
- B. The final PUD shall meet the data submittal requirements illustrated in the "Table of Data Submittal Requirements" contained in Subdivision 12 (J) of this Section apply.
- C. The applicant shall submit with the final plan a current Abstract of Title or Registered Property Certificate, along with any unrecorded documents, and a Certificate of Title.

- D. When the City has agreed to install improvements in a development, the developer may be required to furnish a financial statement satisfactory to the City indicating the developer's ability to develop the plan.
- E. In the event that development standards were submitted and approved as part of the preliminary development plan, development standards shall be made binding upon all future developers of the property in a manner acceptable to the City and may be submitted in lieu of elevation and perspective drawings of project improvements.

#### **SUBDIVISION 17. FINAL PUD'S – PROCESS.**

- A. Once a preliminary plan has been approved by the City Council, the developer may submit a request for final plan approval. In certain cases the City may allow a final plan to be submitted concurrent with a request for preliminary plan approval.
- B. The applicant shall prepare a request for approval of the final plan for the planned unit development filed with the City on an official application form. A fee as provided for by City Council Resolution shall accompany such application. The application shall be accompanied by five (5) large-scale copies and ten (10) reduced scale (not less than 11"x17") copies of the final plan and supportive information in conformity with the requirements of this Ordinance. The final plan shall incorporate all changes, modifications and revisions required by the City, otherwise, it shall strictly conform to the approved preliminary plan.
- C. The Zoning Administrator shall review the application to determine whether or not the application and required material submissions are complete. The final plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Zoning Administrator determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the final plan within sixty (60) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.
- D. Upon receipt of a final plan, copies shall be referred to the Planning Commission, appropriate City staff and to all applicable utility companies, County and State agencies.
- E. Prior to approval of a final plan, the applicant shall have executed a Development Agreement with the City, which controls the installation of all required improvements and assures compliance with all conditions of approval unless determined unnecessary by the City Attorney. Said agreement will require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.
- F. The City Council shall take action on a final plan not more than sixty (60) days after the final plan is filed with the City. If the final plan is not approved, the findings of fact for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.
- G. Required findings for final plan: The City Council shall make each of the following findings before granting final plan approval:

1. The final plan conforms to the approved preliminary plan and any/all conditions for approval of the preliminary plan.
  2. All submission requirements have been satisfied.
  3. The plan conforms to all applicable requirements of this Ordinance subject only to approved rule exceptions.
- H. The applicant shall be notified by the City of the City Council's action together with the findings of fact for such action.

#### **SUBDIVISION 18. FINAL PUD'S – CRITERIA FOR APPROVAL.**

Final PUD approval shall be granted by the City only if the applicant demonstrates that the final PUD substantially conforms to the approved preliminary PUD. For the purposes of this Section, "substantially conforms" means that, as compared to the preliminary PUD, the final PUD contains no revisions in density, uses, design, or development standards or in the site plan, other than the minor changes pursuant to Subdivision 11 of this Section.

#### **SUBDIVISION 19. FINAL PUD'S – EXTENSION OF TIME FOR FILING.**

For good cause shown, the City, at its discretion, may grant an extension of time of one (1) year for filing the final PUD and required accompanying papers, and may grant additional one (1) year extensions; provided, however, the City shall have the right to re-examine and update any conditions made to mitigate development impact.

#### **SUBDIVISION 20. FINAL PUD'S – FAILURE TO FILE – TERMINATION.**

- A. In the event the final PUD or any required attendant papers are not filed within twelve (12) months following approval of a preliminary PUD, except as provided elsewhere in this Section or as noted in Subsection B (immediately following this Subsection), the approval of the preliminary PUD shall lapse and the approval shall be deemed null and void and without force or effect.
- B. When it is determined as part of the preliminary PUD approval that the final PUD is to be phased, the final PUD for the first phase shall be submitted within twelve (12) months of preliminary approval. The final development plan for each subsequent phase shall be submitted within the schedule established at the time of preliminary PUD approval. In the case of a PUD which includes a subdivision, the final PUD shall be submitted within five (5) years of receiving preliminary approval.
- C. The time period for filing of final PUD's shall not include periods of time during which progress on the final PUD was reasonably halted or delayed due to the filing and pendency of legal actions challenging an approval granted by the City pursuant to this Section; provided, that in all cases when more than two (2) years have elapsed subsequent to the date of approval of a preliminary PUD the Permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the City prior

to being granted approval of the final PUD; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

#### **SUBDIVISION 21. FINAL PUD'S – ADJUSTMENTS TO APPROVED FINAL PUD.**

- A. The Zoning Administrator is authorized to allow adjustments in accordance with Subsection B (which immediately follows this Subsection). The Zoning Administrator shall allow only such adjustments as are consistent with guidelines established in Subsection B of this Section, and in no case shall an adjustment be allowed if it will increase the total amount of floor space authorized in the approved final PUD, or the number of dwelling units or density, or decrease the amount of parking or loading facilities or permit buildings to locate substantially closer to any boundary line or change substantially any point of ingress or egress to the site.
- B. For the purposes of this Section, "adjustments" means any departure from the conditions of final PUD approval which complies with the following criteria:
  - 1. The adjustment maintains the design intent and quality of the original approval.
  - 2. The amount of landscaping, buffering and open space shall not be reduced.
  - 3. The number of dwelling units in residential developments and the square footage of structures shall not increase.
  - 4. The adjustment shall not relocate a building, street or other use more than twenty (20) feet in any direction and shall not reduce any required yard and/or setback.
  - 5. The height of buildings and other structures shall not increase.
  - 6. Views from both structures on-site and off-site shall not be substantially reduced.
  - 7. Traffic volumes shall not increase and circulation patterns shall not change.
  - 8. Changes in colors, plant material and parking lot configurations are minor.
  - 9. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original documents.
  - 10. The Zoning Administrator determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

#### **SUBDIVISION 22. BOND REQUIRED FOR FINAL PUD.**

No final PUD shall be implemented until the applicant files with the City a bond approved by the City, executed by a surety company authorized to do business in the state, or other equivalent security approved by the City Attorney, in an amount equal to one hundred ten (110) percent of the estimated cost of all public improvements, utilities and landscaping, conditioned upon the

Permittee's completion of such portions of the project according to the submitted final PUD and the provisions of this Section, and, in addition, providing that no change, extension of time, alteration or addition to the project will in any way affect the obligation on the bond. Said bond, or an additional bond or other equivalent security, shall also be conditioned upon full restoration of the site in the event that grading, clearing or any other site preparation or work is begun and abandoned, and in the determination of the City, it will better serve the public health, welfare and safety to restore the site rather than to require completion of public improvements, utilities and landscaping. If the PUD is also being subdivided, the bonds required to be posted by the subdivision of property as per the Subdivision Ordinance, to the extent that they satisfy the requirements of this Section, shall be accepted as full or partial fulfillment of the requirements hereof.

#### **SUBDIVISION 23. OPERATING AND MAINTENANCE REQUIREMENTS FOR PUD COMMON OPEN SPACE AND SERVICE FACILITIES.**

- A. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.
- B. Common open space and service facilities within a PUD shall be placed under the ownership of one (1) or more of the following:
  - 1. Landlord control where only use by tenants is anticipated.
  - 2. Property owners' association, provided all of the following conditions are met:
    - a. Prior to the use, occupancy, sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in Minnesota Statutes shall be filed with the Zoning Administrator prior to the filings of the declaration of documents or floor plans with the County Recorder's Office.
    - b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall be subject the properties to the terms of the declaration.
    - c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed and if such an association or corporation is formed property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
    - d. The declaration shall additionally provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City, or fails to pay taxes or assessments on properties as they



become due, and in the event the City incurs any expenses not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.

- e. Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it.
- f. The open space restrictions must be permanent and not for a given period of years.
- g. Property owners must pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.
- h. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.

C. Staging of common open space: The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the construction of dwelling units or other private facilities.

#### **SUBDIVISION 24. BUILDING PERMITS – CERTIFICATES OF OCCUPANCY.**

The City shall issue building permits for buildings and structures which conform with the approved final PUD and with all other applicable City Ordinances and regulations. The City shall issue a certificate of occupancy for completed buildings or structures which conform to the requirements of the approved final PUD and all other applicable City Ordinances and regulations. The construction and development of all the open spaces and public and recreational facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

#### **SUBDIVISION 25. EXTENSION OF TIME FOR CONSTRUCTION.**

For good cause shown, the City, at its discretion, may grant one (1) extension of time for commencement or continuation of construction subsequent to approval of the final PUD.

#### **SUBDIVISION 26. TERMINATION OF PLANNED UNIT DEVELOPMENT – FAILURE TO COMMENCE OR CONTINUE CONSTRUCTION.**

If the construction has not been started within five (5) years from the date of approval of a final PUD with an associated subdivision, or two (2) years from the date of approval of any other final PUD, or if construction has been commenced but the work has been abandoned for a period of one (1) year or more, and if no extension of time has been granted as provided herein, the

authorization granted for the planned unit development project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the City pursuant to this Section; however, in all cases, when more than five (5) years have elapsed subsequent to the date of approval of a final PUD with associated subdivision, or more than two (2) years have elapsed subsequent to the date of approval of any other final PUD the Permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the City; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

#### **SUBDIVISION 27. SALE OF LOTS.**

Lots in a platted planned unit development may be sold to separate owners according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as to create a new lot line except as provided in the Subdivision Ordinance, minor subdivision standard.

#### **SUBDIVISION 28. LOTS SUBJECT TO FINAL PUD.**

All lots or other divisions of a subdivided planned unit development shall remain subject to compliance with the final development plan regardless of the fact the subdivision is in compliance with the Subdivision Ordinance or the lot(s)/division(s) of a subdivided PUD were subsequently conveyed.