

*Town of Amherst, NY
Wednesday, July 9, 2014*

Chapter 203. ZONING

PART 8.. ADMINISTRATION AND ENFORCEMENT

§ 8-4. Planned District Rezoning and Planned Unit Development (PUD) Process Application.

[Amended 5-20-2013 by L.L. No. 8-2013]

8-4-1. Applicability.

A. This Section shall apply to applications requesting a zoning map amendment to the PRD, PDD, or TND planned districts and for the Planned Unit Development Process (PUD), as applicable.

[Amended 9-9-2013 by L.L. No. 17-2013]

- B. A conceptual development plan shall be required to petition to rezone to a planned district or apply for a PUD in an applicable district. The development plan shall become part of the petition for rezoning or the application for a PUD and shall be reviewed concurrently.
- C. The conceptual development plan procedure is established to assure that the proposed petition for rezoning or application for a PUD is consistent with this Ordinance and generally consistent with the policies of the Comprehensive Plan.
- D. A request for rezoning to a planned district or a PUD application may be initiated by the Town Board, the property owner of the property to be rezoned or an authorized agent of the owner.

8-4-2. Application Requirements and Development Plan.

- A. An application for planned district rezoning or a PUD application shall be submitted in accordance with § **8-2-2**, Application Requirements.
- B. All applications shall be complete in accordance with § **8-2-2D** before the Planning Director is required to review the application. An application shall not be considered complete until a SEQR determination under Town Code, Chapter **104**, Environmental Quality Review, can be made.
- C. A conceptual development plan shall be included with the application. The precise contents of the development plan shall be established by the Planning Director.

8-4-3. Action by the Planning Director.

- A. Upon receipt of a petition for planned district rezoning or an application for a PUD, the Town Clerk shall transmit the application and the associated conceptual development plan to the Planning Director for distribution to officials and agencies as deemed appropriate for their review, report and recommendation. Such officials and agencies shall each, within 30 days from receiving the petition, furnish the Planning Director a report pertinent to their respective jurisdictions.
- B. The Planning Director shall prepare a report that reviews the planned district rezoning request or PUD application and the associated conceptual development plan in light of any reports, recommendations, applicable plans and the general requirements of this Zoning Ordinance. A copy shall be provided to the Planning Board.

8-4-4. Action by the Planning Board.

- A. The Planning Board shall schedule a public hearing and give notice in accordance with § **8-2-3**, Notice and Public Hearings. The Planning Board shall review the rezoning petition or PUD application and the associated development plan and evaluate the report received from the Planning Director.
- B. Within 62 days following receipt of the petition by the Planning Director, the Planning Board shall furnish to the Town Board and petitioner either its findings that the proposed planned district

rezoning or PUD application is generally consistent with the policies of the Comprehensive Plan and the regulations, standards and purpose of this Ordinance or a finding of any failure of such compliance and a recommendation that the rezoning be approved, disapproved or modified.

- C. The Planning Board may include in a favorable report a recommendation that the Town Board establish conditions as a part of any resolution approving the application in order to protect the public health, safety, welfare and environmental quality of the community and is generally consistent with the policies of the Comprehensive Plan and this Ordinance.
- D. An unfavorable report shall state clearly the reasons therefore and, if appropriate, point out to the petitioner what changes might be necessary in order to receive a favorable report.

8-4-5. **Review Criteria for a Planned District.** In recommending a favorable report to approve a rezoning to a Planned District or a PUD application, the Planning Board shall consider and make findings on the following matters in addition to those specified in § 8-3-5:

- A. The proposed conceptual development plan meets the purpose and objectives of the PRD, PDD, TND or the district in which the PUD is located.
- B. For a Planned District rezoning, the proposed conceptual development plan shall meet all the use regulations of Part 6. The dimensional requirements of the PRD, PDD, or TND districts must also be met.
- C. A PUD development plan must be consistent with all the applicable use regulations in Part 6 and the purpose statement of the zoning district in which it is located.

8-4-6. **Action by the Town Board.**

- A. Following completion of Planning Board review and upon written request by the petitioner, the Town Board shall schedule a public hearing and give notice in accordance with § 8-2-3, Notice and Public Hearings. A further public notice shall be published and paid for by the petitioner when a hearing postponement is requested by the petitioner.

- B. If the petitioner does not request a public hearing before the Town Board as provided for by this Ordinance within six months after the Planning Board makes its report, the petition shall be deemed withdrawn.
- C. Upon request, the Town Board shall hold the public hearing and render a decision within 62 days thereafter. The time within which the Town Board shall render a decision may be extended by mutual consent of the petitioner and the Town Board.
- D. If the Town Board approves a planned district rezoning the Zoning Map shall be amended after publication as required by § 265 of NYS Town Law.
- E. Amending the Zoning Map or approval of a PUD application does not constitute recording of a subdivision plat nor authorize the issuance of building permits. Such actions can only be taken after site plan approval in accordance with § 8-7 or subdivision approval in accordance with the Town of Amherst Subdivision Regulations.
- F. The determination by the Town Board of whether to approve rezoning to a planned district or a PUD application to adjust any regulations, standards or criteria of this Ordinance shall be based on its review of the proposed conceptual development plan, the report of the Planning Board and the Planning Director and any matters brought forth at the hearing and approval or rejection of a development plan where the Town Board has acted on its own initiative. Such approval shall include the making of the findings specified in § **8-3-5** and § **8-4-5**.
- G. The Town Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its resolution approving an application additional conditions or requirements consistent with this Ordinance and generally consistent with the policies of the Comprehensive Plan.
- H. If such additional conditions or requirements are proposed, the petitioner shall be given notice by the Town Clerk in writing of such additional conditions or requirements within 15 days of the filing of the Town Board's decision. The Zoning Map shall not be amended or the PUD application shall not be deemed approved until the

petitioner has filed with the Town Clerk written consent to the development plan as modified. If additional conditions or requirements are imposed by the Town Board, a restriction stating those requirements or conditions shall be noted on the deed. Failure of the petitioner to file consent with the Town Clerk within 62 days of the Town Board's action shall constitute a rejection of the conditions, and the application shall be null and void. Extensions of this period may be granted by the Town Board.

8-4-7. **Notice of Decision.** The decision of the Town Board shall be filed in the Office of the Town Clerk within five business days after the decision is rendered, and a copy mailed to the petitioner.

8-4-8. **Subsequent Amendment of Development Plan.**

A. Amendments to conditions and restrictions shall be resubmitted and reviewed for development plan approval as if it were a new application. Any changes subject to the requirements as defined above shall be reviewed first by the Planning Board. The Town Board shall be responsible for final review and action.

B. Amendments to any other conditions and restrictions for the development plan shall be reviewed and approved in accordance with § 8-7-3

8-4-9. **Resubmittal of Withdrawn or Denied Applications.** When a petition has been filed and processed within 10 days prior to the scheduled public hearing of the Town Board and is thereafter withdrawn, or is withdrawn or denied after the hearing, a petition seeking substantially the same relief shall not be considered or voted on by the Town Board, except for a vote to table or to receive and file, within one year from the date of such previous filing, unless the Planning Board shall first find that there have been substantial changes which would merit a hearing or rehearing, in which case the Planning Board shall in its recommendation set forth the grounds for its determination. This restriction shall not apply where the Town Board has not finally determined the proceeding within 62 days following the public hearing.

8-4-10. **Development Plan Phasing.** If the development is to be implemented in phases, each phase shall have adequate provision for

access, parking, open space, recreation areas and stormwater management and other public improvements to serve the development in the event that other phases are not constructed. All proposed phasing of infrastructure and utilities shall be shown in the development plan. Where the overall development will require more than 24 months to complete, such development shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers or protective areas in order to prevent damage to completed phases, to future phases and to adjoining property.

8-4-11. **Action Following Development Plan Approval.** No construction or site improvement work may commence until subdivision approval has been granted, or site plan approval has been granted and all applicable permits or approvals are obtained in accordance with § 8-7, Site Plan Review.