

ORDINANCE 23-07

**Ordinance Amending Section 54-76 of the Butler Municipal Code
Relating to PUD Planned Unit Development Overlay Districts**

WHEREAS, § 54-76 of the Village of Butler Code of Ordinances (the “Code”) currently provides for the development of land as a Planned Unit Development (PUD) under the terms of that ordinance; and

WHEREAS, § 54-76 of the Code currently requires a minimum area of 5 acres to be considered for a residential, commercial, and industrial PUD and 10 acres for a mixed compatible use; and

WHEREAS, § 54-76 further limits the use of PUDs to developments that fully comply with the building area and height requirements of the underlying district; ad

WHEREAS, The Village of Butler has few 5-acre or larger parcels of land within its’ borders’ and

WHEREAS, expanding the. use of the PUD ordinance would make it more available for future developments without the need to make changes that would impact all properties within the underlying district of a potential development parcel; and

WHEREAS, upon the request of the Village Board, the Plan Commission duly considered the proposed revisions set forth in this Ordinance at a meeting held on October 17th, 2023 following notice and provided its recommendation to the Village Board; and

WHEREAS, at a duly noticed public hearing was conducted on November 7th, 2023 before the Village Board of Trustees concerning the recommendation of the Plan Commission; and

WHEREAS, the Village Board finds that the revisions to § 54-76 of the Village of Butler Code of Ordinances set forth in this Ordinance are in accordance with the comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve burial sites, as defined in Wis. Stat. § 157.70(1)(b); and have been made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village

NOW THEREFORE, the Village Board of the Village of Butler, Waukesha County do hereby ordain as follows:

SECTION I. Section 54-76 of the Village of Butler Code of Ordinances is hereby repealed and recreated to read as follows:

Sec. 54-76. - PUD Planned Unit Development Overlay District.

- (a) Intent. The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, ~~be enhanced by~~ tend to promote the maximum benefit from coordinated area site planning; ~~and~~ and diversified location of structures ~~and or which may include~~ mixing of compatible uses. Such developments are intended, to the extent applicable, to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. Where a development will promote the general welfare or economic balance of the Village and the benefits and amenities of the resulting development will justify the variation from the requirements that are otherwise applicable to the underlying zoning district, ~~The~~ the PUD Planned Unit Development Overlay District ~~under this article will is intended~~ to allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining ~~insofar as possible, the land use density and other~~ standards set forth in the comprehensive plan and compliance with the regulations applicable to or use requirements as set forth in the underlying basic zoning district except as otherwise may be permitted by the Village Board under this section.
- (b) Permitted uses. Uses permitted in a planned unit development overlay district shall conform to uses generally permitted in the underlying basic use district provided that the Village Board may also permit mixed compatible uses within the ordinance creating the planned unit development overlay district. For purposes of this section, compatibility may be determined by giving due consideration to the proposed development as well as the surrounding area.
- (c) Compliance with Regulations for Underlying Zoning District.
- (1) The Village Board may permit deviation from the requirements of the underlying zoning district with respect to maximum building height, yard areas, lot dimensions, setbacks, and parking requirements. Individual structures shall comply with the specific building area and height requirements of the underlying basic use district. All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one or more locations within the development.
- (2) For residential developments, the Village Board of Trustees may also permit an increase in the number of permitted units (density) beyond what is allowed in the underlying district upon its finding that the following standards are met:
- a. The development will provide better utilization of the land and better preservation of natural resources than would otherwise be realized if the site were developed in conformity with the density requirements of the underlying district or as a planned unit development without an increase in density.

- b. The development makes adequate provision such that an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use(s) associated with the development.
- c. The structure(s) proposed for the development are harmonious with existing surrounding structures and land uses.
- d. The building materials to be used for the project have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
- e. The development will result in the construction or upgrading of specific public infrastructure improvements or private that will benefit the public without cost to the Village.

~~(b)~~(d) Minimum area requirements. Areas designated as planned unit development overlay districts is under single or corporate ownership or control, and shall contain a minimum development area of:

| Principal Uses | Minimum Area of PUD |
|----------------------|-------------------------------|
| Residential PUD | 5 .75 acres |
| Commercial PUD | 5 3-1 acre |
| Industrial PUD | 5 1 acre |
| Mixed Compatible Use | 10 1 acre |

~~(e)~~(e) Pre-petition conference. Prior to the official submission of the petition for the approval of a planned unit development overlay district, the owner or ~~his~~ owner's agent making such petition shall meet with the plan commission or ~~its~~ Village staff Zoning Administrator to discuss the scope and proposed nature of the contemplated development.

~~(e)~~(f) Petition for approval. Following the pre-petition conference, the owner or ~~his~~ owner's agent may file a petition with the village administrator-clerk for approval of a planned unit development overlay district. Such petition shall be accompanied by a review fee, ~~as well as~~ and shall incorporate all of the following information:

- (1) Informational statement. A statement which sets forth the relationship of

the proposed PUD to the village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, ~~or and~~ any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

- a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - c. A ~~general outline statement~~ of the organizational structure of ~~a the~~ property owner's or management's association, ~~which may be proposed to be established for the purpose of providing that will provide for~~ any necessary private services and short- and long-term maintenance of the development.
 - d. Any proposed departures from the standards of development as set forth in ~~the~~ chapter 54 of this Code, and any land subdivision ordinance, other applicable village regulations or administrative rules, or other universal guidelines.
 - e. The expected dates of commencement and completion of physical development as set forth in the proposal and also together with an outline of any development staging ~~which that is planned proposed~~.
- (2) A ~~general detailed~~ development plan including:
- a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
 - b. The location of public and private roads, driveways, sidewalks and parking facilities.
 - c. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
 - d. The location of institutional, recreational and open space areas and areas proposed to be reserved or dedicated for public uses, including schools, parks and drainageways.
 - e. The type, size and location of all structures.
 - f. General landscape treatment.
 - g. The existing and proposed locations of public sanitary sewer, water supply facilities and stormwater drainage facilities.
 - h. The existing and proposed locations of all private utilities or other easements.
 - i. Existing topography on the site with contours at no greater than ~~two-~~ two- foot intervals.

- j. Anticipated uses of adjoining lands ~~in regard~~with respect to roads, surface water drainage and compatibility with existing adjacent land uses.
- k. If the development is proposed to be staged, a proposed staging plan.
 - ~~l. A plan showing how the entire development can be further subdivided in the future.~~A statistical sheet indicating the following in square feet, acres and percentage of the total tract, where applicable:
 - i. Gross land area.
 - ii. Land covered by principal buildings.
 - iii. Land covered by accessory buildings.
 - iv. Land devoted to parking, drives and parking structures.
 - v. Land devoted to landscaped open space.
 - vi. Proposed dwelling unit density, if residential, and/or total square footage devoted to nonresidential uses.
 - vii. Proposed number of buildings.
 - viii. Dwelling units per building.
 - ix. Bedrooms per unit.
 - ~~±~~x. Parking spaces provided, whether surface or in structures, and ratio per unit if residential or per 1,000 square feet of building area if nonresidential.

~~(e)~~(g) Referral to plan commission. The petition for a planned unit development overlay district shall be referred to the village plan commission for its review and recommendation, including which may include any additional conditions or restrictions ~~which it~~that the plan commission may deem necessary or appropriate.

~~(f)~~(h) Public hearing. The village ~~plan commission and the village~~ board shall hold a ~~joint~~ public hearing, which may be held jointly with the plan commission. Notice ~~for~~of the hearing shall include reference to the location of the proposed district and the availability of the development plans filed in conjunction with the requested planned unit development overlay district for review. Notice of the public hearing shall also specify the date, time, and place of the hearing and shall state the matter to be considered at the hearing. Notice shall be posted in three public places likely to give notice to persons affected by the hearing at least 15 days prior to the hearing. The village shall also give at least ten days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed action and to all parties in interest. ~~As soon as is practical following the hearing, the plan commission shall report its findings and recommendations to the village board.~~

~~(g)~~(i) General considerations for approval. The plan commission in making its recommendation and the village board in making its determination, shall consider:

(1) -That the petitioners for the proposed planned unit development overlay district have indicated that they intend to begin the physical development of the PUD within nine months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the village board.

(2) That the proposed planned unit development overlay district: ~~is:~~

a. ~~is~~ consistent in all respects ~~to-with~~ the ~~purpose-intent~~ of this section;

b. Is consistent and to-with the spirit and intent of this article; ~~is-~~

c. ~~in conformity~~ Will conform to with the adopted ~~master plan or comprehensive plan and~~ any adopted component thereof; ~~and, that the development would-~~

d. Complies with the provisions of subsections (b) through (d) of this Section 54-76; and

(2)e. Upon completion, will be harmonious with the surrounding area and the Village overall and will promote not be contrary to the general welfare and economic prosperity of the community.

(3) The plan commission in making its recommendations and the village board in making its determination shall further find that:

a. The proposed site shall be provided with adequate drainage facilities for surface waters and stormwaters.

b. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

c. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.

d. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the village.

e. Centralized water and sewer facilities shall be provided.

f. The entire tract or parcel of land to be included in a planned unit development overlay district shall be held under single ownership, or if there is more than one owner, the petition for the planned unit development overlay district shall be considered as one tract, lot or parcel, and the legal description must define the PUD as a single parcel, lot or tract and be so recorded with the county register of deeds.

f.g. Adequate assurances exist to ensure the long-term maintenance of the development.0

(h)(i) Residential PUD, considerations. The plan commission and village board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall

further consider whether:

- (1) The development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
- (2) The total net residential density within the planned unit development overlay district will be consistent with and not exceed the average intensity and density of development permitted in the underlying basic use district unless the provisions of subsection (c)(2) are satisfied.
- (3) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of the facilities.
- (4) Provision has been made for adequate, continuing fire and police protection.
- (5) The population composition of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
- (6) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

~~(j)~~(k) Commercial PUD, considerations. The plan commission and village board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:

- (1) The proposed development will be served by off-street parking and truck service facilities in accordance with this article.
- (2) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.
- (3) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
- (4) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

~~(i)~~(l) Industrial PUD, considerations. The plan commission and village board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:

- (1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance

standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.

- (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and stormwater drainage and maintenance of public areas.
- (3) The proposed development will include provision for off-street parking and truck service areas in accordance with this article and will be adequately served by easy-access rail or arterial highway facilities.
- (4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

~~(k)~~(m) Mixed use PUD, considerations. The plan commission and village board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:

- (1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood as well as the Village.
- (2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of the use and character.
- (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.

(n) Board determination, development agreement required.

- (1) The village board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a planned development overlay district shall be based upon and include as conditions there-to the building, site and operational plans for the development as approved by the village board.

~~(h)~~(2) Rezoning to ~~the a~~ planned unit development overlay district shall be subject to, and shall not become effective until, a subdivider's-developer's agreement has been approved by the village board and fully executed by all parties that requires compliance with all applicable laws and regulations, including any conditions and restrictions adopted to regulate the specific planned development; provides standards for the completion of all building and site improvements; and provides for performance guarantees (such as bonds or letters of credit) to be provided to insure the completion of any work to any municipal infrastructure and any quasi-public

improvements that are required such as, for example: installation and maintenance of erosion control facilities, installation and maintenance of storm water facilities, installation and maintenance of landscaping, and paving of parking lots.

(*) (c) Changes and additions. Any subsequent change or addition to the plans or uses shall first be submitted for review to the village plan commission. The plan commission shall recommend to the village board that the change be approved, approved with modifications, or denied. Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the village board and if, in the opinion of the village board, the change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the village board shall schedule a notice of public hearing as for the original petition. Following the public hearing, the village board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

SECTION II: The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION III: This Ordinance shall take effect and be in force after its passage and posting/publication as required by law.

PASSED and ADOPTED by the Village Board of the Village of Butler, Waukesha County, Wisconsin, this the 7th day of November, 2023.

VILLAGE OF BUTLER

By: Paul Kasdorf
Paul Kasdorf, President

ATTEST:

Ben Hubrich
Benjamin Hubrich, Village Administrator/Clerk