

PART I: FREDERICK COUNTY CODE
CHAPTER 1-6A: MODERATELY PRICED DWELLING UNITS
§ 1-6A-5. REQUIREMENT TO BUILD MPDU'S; AGREEMENTS; ALTERNATIVES.

[(A) and (B) remain unchanged]

(C) Density bonuses are permitted as part of the MPDU program in the following districts: Residential (MXD), R3, R5, R8, R12, R16, PUD, **PDR**, and Village Center (VC), **AND RESIDENTIAL PORTIONS OF A PDE.**

[(D) through (M) remain unchanged]

1-6A-10. EXCEPTIONS.

Any existing site plan, preliminary subdivision plat or Phase II PUD plan approved and having ~~prior~~ APFO approval prior to the effective date of this chapter shall be exempt from the MPDU requirement as long as such approved plan or plat, including any extension or modification thereof, remains valid. Notwithstanding the above, if any revision or modification of an approved plan which would otherwise be exempt from this chapter increases the density of the project, the increased density shall be subject to the requirements of this chapter.

CHAPTER 1-16: SUBDIVISION RULES AND REGULATIONS
ARTICLE V: OTHER DIVISIONS OF PROPERTY
DIVISION 2. ~~PLANNED UNIT DEVELOPMENTS~~ **RESIDENTIAL**
§ 1-16-141. WHEN AUTHORIZED.

~~Planned unit~~ **PLANNED** development **RESIDENTIAL (PDR)** shall be permitted only as authorized by the zoning ordinance.

(1959 Code, § 38A-60(a))

Cross reference:

Zoning, see Chapter 1-19

§ 1-16-142. MODIFICATIONS.

The standards and requirements of this chapter may be modified by the Planning Commission in the case of planned ~~unit~~ developments **RESIDENTIAL (PDR) PROJECTS** which achieve substantially the objectives of the regulations contained herein and which are further protected by such covenants or other legal provisions as will assure conformity to and the achievement of the County Comprehensive ~~Development~~ Plan.

CHAPTER 1-19: ZONING
ARTICLE II: ADMINISTRATION AND ENFORCEMENT
DIVISION 1. ADMINISTRATION
§ 1-19-2.130. FEES.

(A) The Board of County Commissioners shall have the authority to establish by resolution fees for zoning related services specified in this chapter, but in no event shall the fee charged be more than the costs incurred by the county.

Zoning Certificates

[(1) through (8) remain unchanged]

~~Planned Unit Developments~~ **PLANNED DEVELOPMENT RESIDENTIAL**

(9) Phase I plan

(10) Phase II plan

(11) Phase III plan

[(12) through (19) remain unchanged]

[(B) remains unchanged]

ARTICLE IV: REGULATIONS APPLICABLE TO ALL DISTRICTS
DIVISION 5. GENERAL LOT REQUIREMENTS
§ 1-19-4.520. LOT FRONTAGE REQUIREMENTS.

[(A) remains unchanged]

(B) In a townhouse, garden apartment development, cluster subdivision, MPDU project, ~~or a planned unit development~~ **PLANNED DEVELOPMENT RESIDENTIAL (PDR) PROJECT, OR A PLANNED DEVELOPMENT EMPLOYMENT (PDE) PROJECT WITH A RESIDENTIAL COMPONENT**, the lots may face on a common open space, or private street, provided that the plan of such development is approved by the Planning Commission.

[(C) remains unchanged]

ARTICLE V: ZONING MAP AND DISTRICTS
DIVISION 3. USE TABLE
§ 1-19-5.310. USE TABLE.

(A) *Permitted uses and required development review.*

P Principal permitted use subject to design regulations

PS Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-19-3.300 through 1-19-3.300.4

E Principal permitted use as a special exception with site development plan approval. See §§ 1-19-8.320 and following

T Permitted as temporary use as a special exception. See § 1-19-8.300

X Permitted as temporary use only. See § 1-19-8.700

SW Solid Waste Floating Zone

A blank indicates that the use is not permitted under any situation

	Zoning Districts													
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	HS	GC	ORI	LI	GI
[Remains Unchanged]														

[* Remains Unchanged]

** Communication towers not permitted in residential **DISTRICTS**, PUD, **PDR**, ~~and~~ residential **MXD**, **AND PDE** Districts **WITH A RESIDENTIAL COMPONENT**

[Additional footnotes remain unchanged]

[(B) Remains unchanged]

ARTICLE VI: DISTRICT REGULATIONS
 DIVISION 2. PARKING AND LOADING
 § 1-19-6.220 PARKING SPACE REQUIREMENTS AND DIMENSIONS

[(A) through (G) remain unchanged]

(H) Bicycle Parking

(1) For the purposes of this chapter, the bicycle parking requirements in the following table will apply:

Use Categories	Specific Uses ¹	Required Bicycle Parking	
		Class A (Locked Room or Lockers)	Class B (Bicycle Racks) 1 Rack = 2 bike parking spaces
Residential ²	Multifamily dwelling, multifamily group development, or townhouse w/o garage (8 or more units)	Locked room or lockers with space for 4 bikes for each 10 units	1 rack for each 10 units, minimum 2. Not required if Class A parking is provided
	Motel, hotel	None	1 rack for each 20 auto spaces, minimum 1, maximum 10

Use Categories	Specific Uses ¹	Required Bicycle Parking	
		Class A (Locked Room or Lockers)	Class B (Bicycle Racks) 1 Rack = 2 bike parking spaces
Commercial (5,000 Square Feet GFA or Greater)	All	None	1 rack for each 20 auto spaces, minimum 1, maximum 10
Office / Research / Industrial (5,000 Square Feet GFA or Greater)	Planned Industrial / Commercial Development, Office Research or Industrial parks planned as a unit, PDE and MXD zoning district	None	1 rack per 40,000 SF of GFA, minimum 1, maximum 10.
Open Space and Institutional / Government / Commercial Amusements	Commercial amusements / fairground / arena or stadium / civic community center	None	1 rack for each 20 auto spaces, minimum 1, maximum 20
	Transit centers / rail stations	None	minimum 10
	Park and ride	None	1 rack for each 50 auto spaces, minimum 2
	School - K-8	None	1 rack for each classroom
	School 9-12	None	1 rack for each 2 classrooms
	College	Per campus plan as approved by Planning Commission	
	Hospital	None	1 rack for each 50,000 SF of GFA, minimum 1
	Place of worship	None	1 rack for each 20,000 SF of GFA, minimum 1
	Child care center	None	1 rack for each 20,000 SF of GFA, minimum 1
<p>1: No bicycle parking required in Agricultural or Resource Conservation zoning districts unless the specific use is noted in the above table and the proposed site is within 1.2 miles of a designated growth area.</p> <p>2: Where required, bicycle parking for residential uses may be provided as class A (locked room/lockers) or class B (racks)</p>			

DIVISION 5. LIGHTING

§ 1-19-6.500 LIGHTING.

(A) In accordance with the site plan review process provided in §1-19-3.300 through 1-19-3.300.4 or as otherwise provided within this chapter, lighting shall be designed and installed to be fully shielded. Lighting shall be directed downward to prevent glare and light trespass onto adjacent properties, roadways, and the nighttime sky.

(B) Pole and building mounted lighting shall not exceed a maximum height of:

(1) 14 feet in pedestrian oriented developments including pedestrian components in Planned Unit Development (PUD), **PLANNED DEVELOPMENT RESIDENTIAL (PDR)**, Mixed Use Development (MXD), **PLANNED DEVELOPMENT EMPLOYMENT (PDE)**, Office Research/Industrial (ORI), and Planned Industrial/Commercial development

(2) 18 feet for commercial uses

(3) 24 feet for industrial uses

(4) Lighting height shall be measured from the ground to the point of illumination

ARTICLE VII: SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 6. INDUSTRIAL DISTRICTS

§1-19-7.620. PERFORMANCE STANDARDS FOR THE OFFICE/RESEARCH INDUSTRIAL DISTRICT (ORI)

[(A) through (C) remain unchanged]

(D) IN THE ORI DISTRICT, BUILDING ARCHITECTURAL RENDERINGS OR PLANS SHALL BE SUBMITTED TO THE PLANNING COMMISSION TO ASSURE THAT THE APPEARANCE, SIZE, TYPE OF BUILDING MATERIAL OR OTHER ASPECTS OF THE BUILDING ARE CONSISTENT WITH THE PURPOSES AND INTENT OF THE ZONE.

ARTICLE VIII: SPECIFIC USE REGULATIONS

DIVISION 4. PERMITTED USES

§ 1-19-8.420. COMMUNICATION TOWERS.

§ 1-19-8.420.2. CRITERIA.

The following design criteria shall apply to all communication towers in the HS, GC, ORI, LI, GI, MM and non-residential MXD **AND PDE** zoning districts as well as special exceptions in the RC and A Districts.

[(A) through (O) remain unchanged]

(P) Towers may be permitted within the Mineral Mining (MM) and non-residential Mixed Use Development (MXD), **AND PDE** floating zones with the approval of the Planning Commission. Towers shall not be permitted within residential, PUD, **PDR**, ~~or~~ residential MXD, **OR PDE** Districts **WITH A RESIDENTIAL COMPONENT**.

[(Q) through (R) remain unchanged]

DIVISION 6. OTHER

§ 1-19-8.620 MODERATELY PRICED DWELLING UNIT (MPDU).

§ 1-19-8.620.2. SCOPE AND REQUIREMENTS.

The provisions of this division shall apply to all residential developments consisting of 25 units or more on public water and sewer. Residential developments consisting of 25 units or more are required to provide no less than 12.5% of the total units as MPDUs. This includes all developments in VC, R-3, R-5, R-8, R-12, R-16 residential districts, MXD, **PDE**, ~~and~~ PUD, **AND PDR DISTRICTS**.

§ 1-19-8.620.3. DENSITY BONUS.

(A) Density bonuses ranging from 1% to 22% with a corresponding increase in the MPDU requirement from 12.5% to 15% are permitted in R-3, R-5, R-8, R-12, and R-16 residential districts, VC, MXD, **PDE**, PUDs, **PDRs** and co-housing.

[(B) Remains Unchanged]

ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT
DIVISION 5. MIXED-USE DEVELOPMENT DISTRICT (MXD)
§1-19-10.500. MIXED-USE DEVELOPMENT (MXD).

(A) — *Purpose and objectives of the Mixed Use Development District.*

~~(1) The Mixed-Use Development (MXD) District is a floating zone which is established for the purpose of providing for a compatible mixture of commercial, employment, residential, recreational, civic and/or cultural uses which are planned and developed as a unit. The location of an MXD District is restricted to areas which are designated Office/Research or Limited Industrial on the Frederick County Comprehensive Plan and which meet the location and size requirements set forth in this section. An MXD can be established on undeveloped land or as part of an existing project. **PROJECT** is herein defined as a development having an approved preliminary plan. An MXD should act as a complement to, and become a focal point for, the surrounding areas.~~

~~(2) The objectives for this district include:~~

~~(a) Allowing for the introduction of a mixture of uses in an integrated manner while encouraging an efficient use of the land. These introduced uses should provide for heterogeneity and convenience while creating a sense of community.~~

~~(b) Creating an environment that ensures the integration and compatibility of the project with existing and proposed surrounding developments while acting as a focal point for the area.~~

~~(c) Creating open spaces, civic buildings and/or architectural treatments that act as landmarks, symbols and activity centers that provide a strong sense of identity and uniqueness.~~

~~(d) Fostering a pedestrian friendly environment by the development of a comprehensive nonvehicular circulation network which would link residential, commercial and employment areas as well as open spaces, public facilities and recreation areas.~~

~~(e) Allowing for development and design flexibility.~~

~~(f) Preserving and integrating into the project existing structures or features on the site which are, or are eligible, to be placed on the National Register of Historic Places or other recognized historic site inventory.~~

~~(g) Accommodating mass transit services, as that term is described in Volume I of the Comprehensive Plan, which exist or are planned in the vicinity of the MXD site.~~

(B) — *Location.*

~~(1) This Mixed-Use Development (MXD) District shall be located only in areas designated Office/Research and/or Limited Industrial on the Frederick County Comprehensive Plan, which have a classification of at least W 4, S 4 on the Water and Sewerage Plan, and which are consistent with the "Community Concept" of development as described in the Comprehensive Plan.~~

~~(2) The tracts of land eligible for the MXD District shall be located adjacent to existing or planned arterial roads that are or will be adequate to service the proposed development.~~

~~(3) The feasibility of a site for the MXD District would be governed by the ability to satisfy the MXD purpose, objectives and standards.~~

~~_____ (4) The MXD's character and size would be established based on its compatibility with the existing uses in the neighborhood and with the proposed uses for the neighborhood as shown on the Comprehensive Plan.~~

~~(C) *Size requirements.*~~

~~_____ (1) Tracts of land will be 50 acres or greater to be eligible for the MXD District.~~

~~_____ (2) Tracts of land eligible for the MXD District will be 1 or more contiguous tracts of land under the ownership or control of a single developer or owner or 2 or more contiguous tracts of land owned by 2 or more owners if they have filed for the MXD District under a joint application.~~

~~_____ (3) All setback, buffer area and right of way requirements for the different land uses within the MXD shall be determined by the Planning Commission with consideration given to applicable standards for similar uses in existing zoning districts. Flexibility in the application of these setback, buffer and right of way requirements may be allowed by the Planning Commission to achieve excellence of design, an appropriate mix of the elements of the MXD, the efficient use of land and the provision of suitable amenities for the MXD neighborhood. There will be no minimum lot areas or lot widths required within the MXD.~~

~~_____ (4) Setbacks and height limitations for all structures proposed to be over 60 feet high shall be determined by the Planning Commission at the time of site plan approval.~~

~~(D) *Permitted land uses.* Land uses permitted within an MXD District are limited to only the following uses.~~

~~_____ (1) *Residential.* Medium density and high density residential uses including townhouses, multiplexes, condominiums, apartments and elderly housing. (Single family detached residences are not permitted except as part of an MPDU project in accordance with Division 8 of this chapter.)~~

~~_____ (2) *Commercial.* All uses permitted in the General Commercial District of the zoning ordinance with the exception of auction house; lumber yard; mobile home sales; boat sales and service; farm equipment sales and service; carpentry, electric, plumbing, welding, printing and upholstering establishments; contractors, fencing, pool and siding; agricultural products processing; bottling plant; stone monument processing and sales; bus depot; recycling centers; animal auction sales; racetrack; and solid waste transfer stations.~~

~~_____ (3) *Recreational.* Passive and active recreational activities such as golf driving range, health club, tennis club, sports field, swimming pool, skating rink, indoor or outdoor theatre, jogging paths, parks and similar uses.~~

~~_____ (4) *Employment.*~~

~~_____ (a) If the site is designated Office/Research Industrial on the Comprehensive Plan, then office business, office professional, laboratory research (experimental or testing), limited manufacturing, assembly uses, and banks or savings and loans.~~

~~_____ (b) If the site is designated Limited Industrial on the Comprehensive Plan, then office business, office professional, laboratory research (experimental or testing), wholesaling and warehouse, limited manufacturing and assembly uses.~~

~~_____ (5) *Civic/institutional and cultural.* Libraries, meeting halls, fire and rescue stations, post offices, government buildings, civic parks, memorials, amphitheatres, bandstands, museums, and similar facilities and uses.~~

~~(E) — Land use mix determination.~~

~~_____ (1) — The amount and intensity of each land use permitted within an MXD shall be determined by the following criteria.~~

~~_____ (a) — The relationship of the site to the Comprehensive Plan.~~

~~_____ (b) — The gross acreage of the site of land on which, or the project into which, the MXD is established.~~

~~_____ (c) — Availability of existing and planned public services.~~

~~_____ (d) — Access to existing or planned major thoroughfares and transportation systems.~~

~~_____ (e) — Ability to serve the specific needs of the total site or project and the surrounding service area.~~

~~_____ (f) — Physical characteristics of the site.~~

~~_____ (g) — The amount of dedicated open space.~~

~~_____ (h) — Compatibility with surrounding uses and the ability to provide for transition between different uses.~~

~~_____ (i) — External and internal relationships which allow for compatibility and transitioning between uses.~~

~~_____ (j) — Efficient use of the land.~~

~~_____ (k) — If any development or portion thereof requests designation as an age restricted community for the purpose of being exempt from the Adequate Public Facilities Ordinance (APFO) schools test under § 1-20-7(E), this request must be made as part of the applicant's Phase I (rezoning) application, indicating the number and location of the proposed age restricted dwelling units.~~

~~_____ 1. — The Planning Commission and the BOCC, in their respective reviews of the proposed development, shall consider the following criteria to determine whether the project or portion thereof may be approved for designation as an age restricted community:~~

~~_____ a. — Active and passive recreational amenities.~~

~~_____ b. — Availability, suitability and proximity of the development to planned support services.~~

~~_____ c. — The amount of existing and approved age restricted development in the county and in proximity to the proposed development.~~

~~_____ 2. — An adaptive reuse project is not required to be designated at Phase I as an age restricted community in order to apply for the exemption from the APFO schools test under § 1-20-7(E).~~

~~_____ (2) — The residential component of the MXD, as defined in subsection (D)(1) herein, cannot exceed 25% of the gross project acreage exclusive of floodplain areas. The commercial component of the MXD, as defined in Exhibit 2 – Planned Development Districts Draft Text Amendment [7/21/2010]~~

~~subsection (D)(2) herein, cannot exceed 25% of the gross project acreage, except if the MXD has no residential component, then the county in its sole discretion may approve a commercial component which cannot exceed 45% of the gross project acreage, exclusive of floodplain areas. For a MXD with a residential component, the combined residential and commercial portions of the MXD cannot exceed 40% of the gross project acreage or 50% of the gross project acreage exclusive of floodplain areas, whichever is lesser. The county shall have the authority to deny or reduce the size of the residential or commercial component if determined that it is inappropriate for the site or overall area of the MXD. The remainder of the site shall be used for employment uses, civic/institutional and cultural uses, and open space. For MXDs with mixed use buildings, building square footages for each use will be used to determine the land use percentages.~~

~~(3) The total amount of dedicated open space within the MXD shall be no less than 30% of the total area shown for residential development and 20% of the total area devoted to commercial and employment/industrial uses. Existing floodplain areas may be used as part of this open space requirement. Public and noncommercial recreational, cultural and civic activities and facilities may be established in the required open space area(s).~~

~~(4) Vertical and horizontal integration of uses is encouraged.~~

~~(F) General requirements.~~

~~(1) In order to achieve design excellence, sound planning and the achievement of the MXD objectives, the applicant may propose design criteria and/or dimension requirements that are not in complete conformance with existing zoning and subdivision regulations for the various land uses and zones. These modifications may be granted by the Planning Commission.~~

~~(2) The location, design and extent of public facilities shall comply with the following requirements.~~

~~(a) Water and sewer. All MXD's shall be served by public water and sewer.~~

~~(b) Transportation. The location, hierarchy and design of roads will be in accordance with the Comprehensive Plan, the county subdivision regulations, and the Design Manual. However, flexibility in the application of these regulations will be permitted insofar as those ordinances allow for modifications.~~

~~(c) Recreation/civic/cultural and public facilities. The provision for these facilities is encouraged as they act as a catalyst in fulfilling the objectives of the MXD, such as creating a place, achieving a strong sense of identity and creating activity centers. The selection, mixture and location of these facilities shall be compatible with the proposed uses and the overall objectives of the MXD, as determined by the Planning Commission.~~

~~(d) Ownership and maintenance of public facilities.~~

~~1. All water and sewer facilities will be owned by the county.~~

~~2. Streets will be owned and maintained by the county if consistent with county policy. Streets or parking areas not dedicated to and accepted by the Board of County Commissioners shall be maintained by a property owners association, condominium association or similar organization.~~

~~3. Open space, stormwater management facilities and recreation areas will be owned and maintained by the county if consistent with county policy. Those not dedicated to and accepted by the Board of County Commissioners shall be maintained by a property owners association, condominium association or similar organization. The covenants establishing the same shall be subject to the approval of the Planning Commission or other appropriate county authority. To the extent it is in the best interest of the county, the Board of County Commissioners will have the option of accepting dedication of some or all of such facilities.~~

~~(G) — *Phasing.* Construction of the MXD project should be phased to fulfill the overall objectives of this district as set forth in subsection (A)(2) above. Some permitted employment uses must exist on the MXD project prior to, or be developed on the MXD project simultaneously with, the establishment of other uses allowed under this option. Phasing should be designed to fulfill on-site and off-site needs, to compliment the provision of services, and to fulfill the purpose and objectives of the District.~~

~~(H) — *Review and approval of MXD District.*~~

~~(1) — *Phase 1: Concept Plan.* The developer will provide sufficient information for the Board of County Commissioners to approve or disapprove the floating zone on the property and the overall concept of the project and to establish the land use mix of the project.~~

~~(a) — The MXD District will be approved if it satisfies the objectives and requirements set forth in subsections (A) through (G) of this section. The applicant has the burden of proof on all issues.~~

~~(b) — Application. The application submitted must include 15 copies of each of the following:~~

~~1. — A map of the applicant's entire holding at a convenient scale;~~

~~2. — A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property.~~

~~3. — A topographic map of the property, at a minimum of 5 foot contour intervals, unless otherwise specified, showing the existing surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.~~

~~4. — A generalized overall land use plan at 1" = 100 scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.~~

~~5. — A concept plan at 1" = 50 scale showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational or cultural facilities and areas.~~

~~6. — A phasing schedule describing the timing and sequence of development.~~

~~7. — A justification statement addressing the following:~~

~~a. — Relationship to Comprehensive Plan, zoning ordinance and other development regulations;~~

~~b. — Integration and relationship of uses within the project and with existing uses in the neighborhood of the project;~~

~~c. — Long-term implications on local development patterns, facilities and services;~~

~~d. — Topography and relationship to on-site and off-site natural and man-made features;~~

~~_____ e. The timing of the construction of the MXD project as it relates to the provision of facilities and services;~~

~~_____ f. Availability and suitability of pedestrian and vehicular access; transportation systems.~~

~~_____ g. Water and sewer facilities and capacity availability, and any proposal to supply them;~~

~~_____ h. Preservation and integration into the project of any existing historic structures on the MXD site.~~

~~_____ 8. The Planning Commission or Board of County Commissioners may require that architectural renderings of buildings, streetscapes or public areas be presented to assure that the appearance, size and type of building material or other aspects of the design are in keeping with the purposes and intent of the MXD District. The Board of County Commissioners may add conditions to its approval of the MXD requiring architectural review.~~

~~_____ (c) No less than 60 days after submission, the Planning Commission shall review the Phase I proposal at a public hearing. All requirements for floating zone map amendments, as set forth in Article III, Division 1, shall be met. The Planning Commission shall then make a recommendation to the Board of County Commissioners as to approval or disapproval of the MXD application. A recommendation for approval will be accompanied by a recommendation for land use mix percentages for the project.~~

~~_____ (d) Upon receipt of the Planning Commission recommendation, the Board of County Commissioners shall hold a public hearing on the proposal. The Board of County Commissioners shall then determine the feasibility and desirability of the project concept and shall approve or disapprove the MXD rezoning, and if approved, set maximum permitted land use mix percentages.~~

~~_____ (e) If the execution phase, as provided in subsection (2) below, has not commenced within 3 years of approval of concept plan, the Planning Commission shall review the concept plan to determine if the MXD is still an appropriate use for the property. The Planning Commission may then grant an extension of the approval or recommend that the MXD be reviewed by the County Commissioners for possible removal of the MXD floating zone. The County Commissioners shall have the authority to remove the floating zone and have the site revert to its prior zoning classification.~~

~~_____ (2) *Phase II: Execution Phase.* This guides the project through the customary subdivision and site plan process. Before applying for execution phase, the MXD site shall be classified at least W 4, S 4 on the Frederick County Water and Sewerage Plan.~~

~~_____ (a) Preliminary and final platting in accordance with the county subdivision regulations is required in addition to submission of 5 copies of any covenants to be attached to the property and 5 copies of any homeowners association charter.~~

~~_____ (b) Site plan review shall be in accordance with §§ 1 19 2.160 and 1 19 3.300 through 1 19 3.300.4 of the zoning ordinance.~~

~~_____ (c) Adequate Public Facilities Ordinance (APF) review will occur as part of the normal subdivision and/or site plan approval process.~~

~~————— (d) — As part of the execution phase, the Planning Commission may approve changes to the location of land uses on the concept plan, provided that the amount or percentage mix of commercial and/or residential development on the site does not increase from the Phase I concept plan approval. Any increase in the amount or percentage mix of commercial and/or residential development must be approved by the Board of County Commissioners. Any change in the plan which would replace a mixed use area with an area containing only residential uses would also be subject to Board of County Commissioners approval.~~

~~—(I)— Appeals.~~

~~————— (1) — Any person aggrieved by a final decision of the Planning Commission or the Board of County Commissioners pursuant to this section may appeal to the Circuit Court pursuant to Maryland Rules, Subtitle B. The decision of the Circuit Court may be appealed to the Court of Special Appeals, or, upon certiorari, to the Court of Appeals of Maryland in accordance with Maryland Rules.~~

~~————— (2) — The Board of County Commissioners may file a responsive pleading and be a party to or take an appeal to the Circuit Court of the county, to the Court of Special Appeals of Maryland or, upon certiorari, to the Court of Appeals of Maryland of any decision made under this section.~~

~~—(J)— MPDU requirements applicable. MXD developments which include a residential component are subject to the requirements of Division 8 of this chapter.~~

~~(Ord. 93-09-073, 4-20-1993; Ord. 97-04-182, 2-4-1997; Ord. 01-03-277, 3-6-2001; Ord. 02-26-322, 11-21-2002; Ord. 06-44-440, 12-19-2006; Ord. 07-21-461, 6-12-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, 7-14-2009)~~

Editor's note:

~~— Subtitle B, as referenced in division (I)(1) above, is now contained in Title 7 of the Maryland Rules.~~

DIVISION 5. PLANNED DEVELOPMENT DISTRICTS
§ 1-19-10.500. PLANNED DEVELOPMENT DISTRICTS

§ 1-19-10.500.1 PURPOSE AND INTENT

THE PLANNED DEVELOPMENT DISTRICTS (PLANNED DEVELOPMENT RESIDENTIAL (PDR) AND PLANNED DEVELOPMENT EMPLOYMENT (PDE)) ARE FLOATING ZONES ESTABLISHED TO PROVIDE FOR NEW DEVELOPMENT AND REDEVELOPMENT WITHIN IDENTIFIED GROWTH AREAS THAT RESULT IN AN INTEGRATED MIXTURE OF COMMERCIAL, EMPLOYMENT, RESIDENTIAL, RECREATIONAL, CIVIC AND/OR CULTURAL LAND USES **AS PROVIDED WITHIN THE APPROPRIATE FREDERICK COUNTY COMPREHENSIVE, COMMUNITY, OR CORRIDOR PLAN**. THESE USES PLANNED AND DEVELOPED AS A UNIT ARE INTENDED TO:

(A) RESULT IN AN EFFICIENT USE OF LAND AND THE EFFICIENT EXTENSION OF PUBLIC FACILITIES;

(B) ALLOW INNOVATIVE DESIGN INVOLVING FLEXIBILITY NOT PERMITTED WITHIN EUCLIDEAN ZONING DISTRICTS;

(C) PROMOTE CONTINUITY OF NEW DEVELOPMENT WITH EXISTING DEVELOPMENT THROUGH BUILDING AND SITE DESIGN, INCLUDING CONSIDERATION OF ARCHITECTURAL ELEMENTS, LANDSCAPE DESIGN, BUILDING PLACEMENT, AND STREET NETWORK;

(D) PROMOTE BUILDING AND SITE DESIGN THAT REDUCES DEPENDENCE ON VEHICULAR MOVEMENT THROUGH THE PROVISION OF BICYCLE, PEDESTRIAN, AND TRANSIT FRIENDLY ELEMENTS WHICH INCLUDE TRANSPORTATION CIRCULATION NETWORKS LINKING INTERNAL AND EXTERNAL RESIDENTIAL, COMMERCIAL, EMPLOYMENT AREAS, AND RECREATION, OPEN SPACES AND PUBLIC FACILITIES;

(E) RESULT IN AN INTEGRATED MIXTURE OF USES WITHIN THE PLANNED DEVELOPMENT EMPLOYMENT DISTRICT AND A MIXTURE OF HOUSING TYPES WITHIN THE PLANNED DEVELOPMENT RESIDENTIAL DISTRICT;

(F) PROMOTE THE PROTECTION, PRESERVATION, AND INTEGRATION OF HISTORIC RESOURCES INTO THE PLANNED DEVELOPMENT THROUGH REUSE, ADAPTIVE USE, AND REHABILITATION;

(G) PROMOTE THE EVALUATION AND INTEGRATION OF NATURAL FEATURES INTO BUILDING AND SITE DESIGN;

(H) PROVIDE DEVELOPMENT FLEXIBILITY TO RESPOND TO MARKET DEMANDS.

§ 1-19-10.500.2 SIZE AND LOCATION

(A) THE PDR DISTRICT MAY ONLY BE ESTABLISHED WHERE THE TRACT OF LAND RECEIVING THE PDR DISTRICT HAS A COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL, OR HIGH DENSITY RESIDENTIAL EXCEPT AS PROVIDED IN 1-19-10.500.2(D) BELOW.

(B) THE PDE DISTRICT MAY ONLY BE ESTABLISHED WHERE THE TRACT OF LAND RECEIVING THE PDE DISTRICT HAS A COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION OF MIXED USE DEVELOPMENT, OFFICE RESEARCH INDUSTRIAL, OR LIMITED INDUSTRIAL EXCEPT AS PROVIDED IN 1-19-10.500.2(D) BELOW.

(C) THE PLANNED DEVELOPMENT DISTRICTS MAY ONLY BE ESTABLISHED WHERE THE TRACT OF LAND RECEIVING THE PLANNED DEVELOPMENT DISTRICT HAS A CATEGORY OF PLANNED SERVICE OR HIGHER AS SHOWN ON THE FREDERICK COUNTY WATER AND SEWERAGE PLAN.

(D) THE PLANNED DEVELOPMENT DISTRICT MAY BE APPLIED TO A COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION OF NATURAL RESOURCE WHERE THE NATURAL RESOURCE LAND USE DESIGNATION IS A MINOR PORTION OF THE OVERALL TRACT RECEIVING THE PLANNED DEVELOPMENT DISTRICT. THOSE PORTIONS OF THE PROJECT HAVING A LAND USE DESIGNATION OF NATURAL RESOURCE MAY BE INCLUDED IN THE DENSITY CALCULATION BUT MAY ONLY BE DEVELOPED AS PROVIDED IN § 1-19-10.500.9 (B)(2).

(E) THERE SHALL BE NO MINIMUM TRACT SIZE, LOT AREA, OR LOT WIDTH FOR THE PLANNED DEVELOPMENT DISTRICTS.

§ 1-19-10.500.3 APPROVAL CRITERIA

THE BOARD OF COUNTY COMMISSIONERS MAY APPROVE OR DISAPPROVE A REQUEST FOR REZONING OF PROPERTY TO A PLANNED DEVELOPMENT DISTRICT IF PERSUADED THAT GRANTING THE REQUEST IS APPROPRIATE AND SERVES THE PUBLIC INTEREST. THE APPROVAL OR DISAPPROVAL OF A REQUEST FOR THE APPLICATION WILL BE DETERMINED THROUGH EVALUATION OF SEVERAL CRITERIA TO ESTABLISH WHETHER THE PROPOSED PROJECT MEETS THE PURPOSE AND INTENT OF THE ZONING DISTRICT. IN ADDITION TO THE REQUIREMENTS IN § 1-19-3.110.4, THE PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS MUST FIND THAT THE PROJECT ADEQUATELY ADDRESSES THE FOLLOWING CRITERIA:

(A) THE PROPOSED DEVELOPMENT IS COMPACT, EMPLOYING DESIGN PRINCIPLES THAT RESULT IN EFFICIENT CONSUMPTION OF LAND, EFFICIENT EXTENSION OF PUBLIC INFRASTRUCTURE, AND EFFICIENT PROVISION OF PUBLIC FACILITIES;

(B) THE PROPOSED DEVELOPMENT DESIGN AND BUILDING SITING ARE IN ACCORDANCE WITH THE COUNTY COMPREHENSIVE PLAN, AND ANY APPLICABLE COMMUNITY, AND CORRIDOR PLANS;

(C) THE PROPOSED DEVELOPMENT IS COMPATIBLE WITH EXISTING OR ANTICIPATED SURROUNDING LAND USES WITH REGARD TO SIZE, BUILDING SCALE AND STYLE, INTENSITY, SETBACKS, AND LANDSCAPING OR THE PROPOSAL PROVIDES FOR MITIGATION OF DIFFERENCES IN APPEARANCE OR SCALE THROUGH SUCH MEANS AS SETBACKS, SCREENING, LANDSCAPING; OR OTHER DESIGN FEATURES IN ACCORDANCE WITH THE COUNTY COMPREHENSIVE PLAN, AND ANY APPLICABLE COMMUNITY, OR CORRIDOR PLANS;

(D) THE PROPOSED DEVELOPMENT PROVIDES A SAFE AND EFFICIENT ARRANGEMENT OF LAND USE, BUILDINGS, INFRASTRUCTURE, AND TRANSPORTATION CIRCULATION SYSTEMS. FACTORS TO BE EVALUATED INCLUDE: CONNECTIONS BETWEEN EXISTING AND PROPOSED COMMUNITY DEVELOPMENT PATTERNS, EXTENSION OF THE STREET NETWORK; PEDESTRIAN CONNECTIONS TO, FROM, AND BETWEEN BUILDINGS, PARKING AREAS, RECREATION, AND OPEN SPACE;

(E) THE TRANSPORTATION SYSTEM IS **OR WILL BE MADE** ADEQUATE TO SERVE THE PROPOSED DEVELOPMENT IN ADDITION TO EXISTING USES IN THE AREA. FACTORS TO BE EVALUATED INCLUDE: ROADWAY CAPACITY AND LEVEL OF SERVICE, ON-STREET PARKING IMPACTS, ACCESS REQUIREMENTS, NEIGHBORHOOD IMPACTS, **PROJECTED CONSTRUCTION SCHEDULE OF PLANNED IMPROVEMENTS**, PEDESTRIAN SAFETY, AND TRAVEL DEMAND MODELING;

(F) THE PROPOSED DEVELOPMENT PROVIDES DESIGN AND BUILDING PLACEMENT THAT OPTIMIZES WALKING, BIKING, AND USE OF PUBLIC TRANSIT. FACTORS TO BE EVALUATED INCLUDE: EXTENSION OF THE STREET NETWORK; PEDESTRIAN CONNECTIONS TO, FROM, AND BETWEEN BUILDINGS, PARKING AREAS, RECREATION, AND OPEN SPACE; EXISTING AND PROPOSED COMMUNITY DEVELOPMENT PATTERNS;

(G) EXISTING FIRE AND EMERGENCY MEDICAL SERVICE FACILITIES ARE **OR WILL BE MADE** ADEQUATE TO SERVE THE INCREASED DEMAND FROM THE PROPOSED DEVELOPMENT IN ADDITION TO EXISTING USES IN THE AREA. FACTORS TO BE EVALUATED INCLUDE: RESPONSE TIME, **PROJECTED SCHEDULE OF PROVIDING PLANNED IMPROVEMENTS**, BRIDGES, ROADS, AND NATURE AND TYPE OF AVAILABLE RESPONSE APPARATUS.

(H) NATURAL FEATURES OF THE SITE HAVE BEEN ADEQUATELY CONSIDERED AND UTILIZED IN THE DESIGN OF THE PROPOSED DEVELOPMENT. FACTORS TO BE EVALUATED INCLUDE: THE RELATIONSHIP OF EXISTING NATURAL FEATURES TO MAN-MADE FEATURES BOTH ON-SITE AND IN THE IMMEDIATE VICINITY, NATURAL FEATURES CONNECTIVITY, ENERGY EFFICIENT SITE DESIGN, USE OF ENVIRONMENTAL SITE DESIGN OR LOW IMPACT DEVELOPMENT TECHNIQUES IN ACCORDANCE WITH CHAPTER 1-15.2 OF THE FREDERICK COUNTY CODE;

(I) THE PROPOSED MIXTURE OF LAND USES IS CONSISTENT WITH THE PURPOSE AND INTENT OF THE UNDERLYING COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION(S), AND ANY APPLICABLE COMMUNITY OR CORRIDOR PLANS;

(J) **PLANNED DEVELOPMENTS SHALL BE SERVED ADEQUATELY BY PUBLIC FACILITIES AND SERVICES. ADDITIONALLY**, INCREASED DEMAND FOR PUBLIC FACILITIES, SERVICES, AND UTILITIES CREATED BY THE PROPOSED DEVELOPMENT (INCLUDING WITHOUT LIMITATION WATER, SEWER, TRANSPORTATION, PARKS AND RECREATION, SCHOOLS, FIRE AND EMERGENCY SERVICES, LIBRARIES, AND LAW ENFORCEMENT) SHALL BE EVALUATED **AS ADEQUATE OR TO BE MADE ADEQUATE** WITHIN ESTABLISHED COUNTY STANDARDS.

§ 1-19-10.500.4 REVIEW AND APPROVAL PROCEDURES

REVIEW AND APPROVAL OF THE PLANNED DEVELOPMENT DISTRICT INCLUDES A PREAPPLICATION CONFERENCE, NEIGHBORHOOD MEETING, PHASE I JUSTIFICATION AND FLOATING ZONE RECLASSIFICATION, AND PHASE II EXECUTION. THE APPLICANT MUST OBTAIN ALL NECESSARY APPROVALS AT EACH PHASE PRIOR TO PROCEEDING TO THE NEXT PHASE.

(A) **PREAPPLICATION CONFERENCE.**

PRIOR TO A PHASE I APPLICATION SUBMISSION, A PREAPPLICATION CONFERENCE SHALL BE HELD WITH THE DIVISION OF PLANNING. THE CONFERENCE IS INTENDED TO PROVIDE INFORMATION TO THE APPLICANT REGARDING APPLICATION REQUIREMENTS, REVIEW AND APPROVAL PROCEDURES, NEIGHBORHOOD MEETING REQUIREMENTS, DISCUSSION OF DEVELOPMENT CONSTRAINTS AND OPPORTUNITIES, COUNTY POLICY INITIATIVES, AND THE COUNTY COMPREHENSIVE PLAN. THE APPLICANT SHALL SUBMIT PREAPPLICATION INFORMATION IN A FORMAT ACCEPTABLE TO THE DIVISION OF PLANNING, INCLUDING: A DESCRIPTION OF THE TRACT OF LAND FOR WHICH THE PLANNED DEVELOPMENT DISTRICT IS PROPOSED; EXISTING AND PROPOSED LAND USES; EXISTING HISTORIC AND NATURAL FEATURES; OR OTHER INFORMATION AS REQUIRED TO ADEQUATELY EVALUATE THE APPLICATION.

(B) **NEIGHBORHOOD MEETING.**

PRIOR TO SUBMITTING A PHASE I APPLICATION THE APPLICANT SHALL HOLD A NEIGHBORHOOD MEETING. THE MEETING WILL PROVIDE AN OPPORTUNITY TO IDENTIFY IMPACTS THAT THE PROJECT MAY HAVE ON THE NEIGHBORHOOD SURROUNDING THE PROPOSED PROJECT.

(C) **PHASE I JUSTIFICATION AND FLOATING ZONE RECLASSIFICATION.**

THE PROCEDURE FOR PHASE I APPROVAL IS THE SAME AS FOR ZONING MAP AMENDMENTS SET FORTH IN §1-19-3.110.1 THROUGH 1-19-3.110.6.

(1) PRIOR TO PHASE I APPLICATION THE TRACT OF LAND RECEIVING THE PROPOSED PLANNED DEVELOPMENT DISTRICT SHALL BE CLASSIFIED AS PLANNED SERVICE OR HIGHER ON THE FREDERICK COUNTY WATER AND SEWERAGE PLAN.

(2) PHASE I APPROVAL SHALL INCLUDE APPROVAL OF A CONCEPT PLAN GRAPHICALLY ILLUSTRATING THE PROJECT. THE CONCEPT PLAN SHALL BE SUBMITTED FOR REVIEW AS PART OF THE PHASE I APPLICATION.

(D) **PHASE II EXECUTION.**

THE PROCEDURE FOR PHASE II APPROVAL SHALL FOLLOW THE APPLICABLE SUBDIVISION OR SITE DEVELOPMENT PLAN REVIEW PROCESS.

(1) PRIOR TO PHASE II APPLICATION THE PLANNED DEVELOPMENT DISTRICT PROPERTY MUST BE CLASSIFIED AT LEAST W4/S4 ON THE FREDERICK COUNTY WATER AND SEWERAGE PLAN.

(2) **SUBSEQUENT TO PHASE I APPROVAL AND PRIOR TO PHASE II APPROVAL THE APPLICANT SHALL OBTAIN APFO APPROVAL IN ACCORDANCE WITH CHAPTER 1-20 OF THE FREDERICK COUNTY CODE.**

(3) SUBDIVISION SHALL OCCUR IN ACCORDANCE WITH COUNTY SUBDIVISION REGULATIONS. SITE DEVELOPMENT PLAN REVIEW SHALL OCCUR IN ACCORDANCE WITH §1-19-3.300 THROUGH 1-19-3.300.4.

§ 1-19-10.500.5 APPLICATION

A PHASE I APPLICATION FOR PLANNED DEVELOPMENT DISTRICT RECLASSIFICATION AND CONCEPT PLAN APPROVAL MUST INCLUDE SUFFICIENT INFORMATION TO PROVIDE THE BOARD OF COUNTY COMMISSIONERS WITH A BASIS TO APPROVE THE OVERALL CONCEPT OF THE PROJECT, REZONE THE PROPERTY, AND SET A MAXIMUM PERMITTED LAND USE DENSITY, OR THE BOARD MAY IN ITS SOLE DISCRETION, DISAPPROVE THE REZONING REQUEST. AT A MINIMUM, A PHASE I APPLICATION SHALL INCLUDE: INFORMATION REGARDING THE EXISTING SITE CONDITIONS, A CONCEPT PLAN PROVIDING A GRAPHIC ILLUSTRATION OF THE PROPOSED DEVELOPMENT, A JUSTIFICATION STATEMENT, AND A PROPOSED PHASING PLAN IN ACCORDANCE WITH THE FOLLOWING STANDARDS:

(A) **EXISTING SITE CONDITIONS.**

EXISTING SITE CONDITIONS INFORMATION SHALL INCLUDE THE FOLLOWING:

(1) A VICINITY MAP AT A SCALE OF 1 INCH EQUALS 2,000 FEET OR MORE TO THE INCH, DEPICTING THE TRACT OF LAND PROPOSED FOR DEVELOPMENT WITH RESPECT TO SURROUNDING PROPERTIES AND STREETS. AT A MINIMUM THE MAP WILL SHOW ALL STREETS AND HIGHWAYS WITHIN 2,000 FEET OF THE PROPERTY PROPOSED FOR DEVELOPMENT. WHERE AVAILABLE, THE VICINITY MAP SHALL INCLUDE STATE ASSESSMENT TAX MAP, PARCEL NUMBER, AND TAX IDENTIFICATION FOR ALL PROPERTIES DEPICTED.

(2) A BOUNDARY SURVEY PREPARED AND CERTIFIED BY A REGISTERED LAND SURVEYOR WITHIN THE STATE OF MARYLAND. THE BOUNDARY SURVEY SHALL IDENTIFY ALL EASEMENTS AFFECTING THE TRACT OF LAND PROPOSED FOR DEVELOPMENT, AND OTHER PHYSICAL ENCUMBRANCES READILY IDENTIFIED BY A FIELD INSPECTION.

(3) A TRANSPORTATION MAP INDICATING THE LOCATION OF THE TRACT OF LAND PROPOSED FOR DEVELOPMENT, WITH RESPECT TO LOCAL, COLLECTOR, AND ARTERIAL STREETS, EXISTING EASEMENTS AND RIGHTS-OF-WAY ON OR ABUTTING THE TRACT OF LAND PROPOSED FOR DEVELOPMENT, ALL EXISTING BICYCLE AND PEDESTRIAN FACILITIES, AND EXISTING AND PLANNED TRANSIT FACILITIES INCLUDING ROUTES AND STOPS. THE TRANSPORTATION MAP SCALE SHALL BE DETERMINED AT THE PREAPPLICATION CONFERENCE BASED ON PROJECT SPECIFICS.

(4) A LAND USE MAP AT A SCALE OF 1 INCH = 100 FEET, INDICATING THE TYPE, LOCATION, ACREAGE, AND DENSITY OF ALL EXISTING LAND USES, THE GENERAL STREET LAYOUT AND CIRCULATION PATTERN, INCLUDING EXISTING ZONING AND COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION. EXISTING LAND USES SHALL BE INCLUDED TO A DISTANCE OF 500 FEET SURROUNDING THE TRACT OF LAND PROPOSED FOR DEVELOPMENT.

(5) AN AERIAL PHOTOGRAPH WITH THE TRACT OF LAND PROPOSED FOR DEVELOPMENT AND PROJECT SITE CLEARLY DELINEATED.

(6) AN ENVIRONMENTAL AND NATURAL FEATURES MAP AT A MINIMUM SCALE OF 1 INCH = 100 FEET. UNLESS OTHERWISE SPECIFIED BY THE DIVISION OF PLANNING. THE MAP SHALL REFLECT THE TRACT OF LAND PROPOSED FOR DEVELOPMENT AND THE FIRST 100 FEET OF ADJOINING LAND OR WIDTH OF THE ADJACENT LOT, WHICHEVER IS LESS, AND INCLUDE THE FOLLOWING:

(a) INTERMITTENT AND PERENNIAL STREAMS, DRAINAGE COURSES, AND HISTORIC FLOW-WAYS ON OR WITHIN 200 FEET OF THE TRACT OF LAND PROPOSED FOR DEVELOPMENT, INCLUDING STREAM SETBACKS AS REQUIRED IN SECTION 1-19-9.400

(b) AREAS OF 100 YEAR FLOODPLAIN AS DEPICTED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS **OR AMENDMENTS THERETO**, INCLUDING FLOODPLAIN AND STREAM SETBACKS AS REQUIRED IN SECTION 1-19-9.110

(c) TOPOGRAPHY AT A MINIMUM OF 5 FOOT CONTOUR INTERVALS UNLESS OTHERWISE REQUIRED BY THE DIVISION OF PLANNING

(d) MODERATE SLOPES (15% TO <25%) AND STEEP SLOPES (25% OR GREATER)

(e) WETSOILS AND FLOODING SOILS

(f) TREE LINES, FORESTED AREAS, AND ROCK FORMATIONS INCLUDING HISTORIC, CHAMPION, AND SPECIMEN TREES

(g) LOCATION AND TYPE OF NATIVE, EXOTIC, AND INVASIVE VEGETATION

(h) JURISDICTIONAL WETLANDS, INCLUDING TOTAL ACREAGE

(i) ANY OTHER RELEVANT INFORMATION AS REQUIRED BY THE DIVISION OF PLANNING

(7) THE LOCATION AND DESCRIPTION OF ALL SITES, BUILDINGS, STRUCTURES, OR OTHER OBJECTS LISTED ON OR ELIGIBLE FOR THE NATIONAL REGISTER OF HISTORIC PLACES, FREDERICK COUNTY REGISTER OF HISTORIC PLACES, OR AS LISTED ON THE MARYLAND INVENTORY OF HISTORIC PROPERTIES.

(B) CONCEPT PLAN.

THE CONCEPT PLAN SHALL BE SCALED TO FIT THE SHEET SIZE OF 24 INCH X 36 INCH, AND SHALL ALSO BE SUBMITTED AT 11 INCH X 17 INCH, AND INCLUDE THE FOLLOWING:

(1) GENERALIZED LOCATION AND TYPE OF EXISTING AND PROPOSED EASEMENTS.

(2) GENERALIZED LOCATION, CONFIGURATION, AND **TYPICAL** DIMENSIONS OF ALL PROPOSED SUBDIVISION LOTS.

(3) GENERALIZED LOCATION, CONFIGURATION, AND DESCRIPTION OF PROPOSED LAND USE AREAS INCLUDING: LAND USE, SQUARE FOOTAGE, HEIGHT, AND NUMBER OF STORIES OF PROPOSED BUILDINGS, PROPOSED DENSITY, PARKING AND LOADING AREAS, INGRESS AND EGRESS, NATURAL FEATURES, HISTORIC AND CULTURAL FEATURES, AND RECREATION/OPEN SPACE AREAS.

(4) EXISTING LAND USE SURROUNDING THE SUBJECT PROPERTY INCLUDING ZONING AND COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION.

(5) A TRANSPORTATION MAP DETAILING THE GENERALIZED LOCATION AND DESIGN OF THE PROPOSED INTERNAL AND EXTERNAL VEHICULAR AND NONVEHICULAR TRANSPORTATION NETWORK, CONNECTIONS TO EXISTING TRANSPORTATION FACILITIES, AND GENERAL TRIP GENERATION FOR THE PROPOSED LAND USE(S).

(6) A TABLE AND COMPARATIVE ANALYSIS PROVIDING AN EXPLANATION OF THE PROJECT GROSS AND NET DENSITY AS PROPOSED WITHIN THE PDR OR PDE DISTRICT COMPARED TO THE GROSS AND NET DENSITY AS PERMITTED WITHIN THE EXISTING LAND USE DESIGNATION. FOR THE PURPOSES OF CALCULATING GROSS AND NET DENSITY THE FOLLOWING FORMULAS SHALL BE USED: TOTAL NUMBER OF DWELLING UNITS ÷ TOTAL PROJECT ACREAGE = GROSS DENSITY. TOTAL NUMBER OF DWELLING UNITS ÷ THE TOTAL PROJECT BUILDABLE ACREAGE = NET DENSITY. **THE CALCULATION OF NET DENSITY EXCLUDES FLOODPLAIN, ROADWAYS, AND OTHER LAND PROPOSED TO BE DEDICATED FOR PUBLIC PURPOSES.**

(7) **BUILDING AND SPACES VISUALIZATION.** THE PHASE I APPLICATION SHALL INCLUDE A BUILDINGS AND SPACES VISUALIZATION COMPONENT TO SERVE AS A GRAPHICAL TRANSLATION OF THE PLANNED DEVELOPMENT DISTRICT CONCEPT PLAN. THIS APPLICATION COMPONENT **MAY** UTILIZE ANY VISUALIZATION TOOL NECESSARY TO ADEQUATELY DEMONSTRATE THE CONCEPTUAL LAYOUT OF STREETS, BUILDINGS, OPEN SPACES, AND STRUCTURES IN THE PLANNED DEVELOPMENT DISTRICT. THE PRIMARY PURPOSE OF THIS COMPONENT SHALL BE TO COMMUNICATE THE CONCEPTUAL FORM OF THE PROPOSED DEVELOPMENT FOR THE PURPOSE OF EVALUATING WHETHER THE PROJECT MEETS THE PLANNED DEVELOPMENT DISTRICT PROVISIONS.

(C) **THE JUSTIFICATION STATEMENT.**

THE JUSTIFICATION STATEMENT SHALL ADDRESS EACH OF THE APPROVAL CRITERIA SET FORTH ABOVE AND WITHIN §1-19-3.110.1 THROUGH 1-19-3.110.6 OF THIS CHAPTER.

(D) **THE PHASING PLAN.**

THE PROPOSED PHASING PLAN SHALL DESCRIBE THE TIMING AND SEQUENCE FOR DEDICATION OF PUBLIC LANDS AND DEVELOPMENT OF PUBLIC FACILITIES AND UTILITIES.

(E) **THE PHASE II APPLICATION SHALL BE PROVIDED IN ACCORDANCE WITH ALL APPLICABLE SUBDIVISION OR SITE DEVELOPMENT PLAN REVIEW REQUIREMENTS, IN ADDITION TO OTHER REQUIRED SUBMISSIONS AND APPROVALS (INCLUDING WITHOUT LIMITATION, ADEQUATE PUBLIC FACILITIES ORDINANCE STUDIES, FOREST RESOURCE ORDINANCE PLANS, SIGHT-DISTANCE STUDIES, AND STORMWATER MANAGEMENT CONCEPTS).**

(F) **A COMBINED APPLICATION FOR PDR AND PDE DISTRICTS MAY BE SUBMITTED WHERE THE SUBJECT PROPERTY IS TO BE DIVIDED INTO DEVELOPMENT AREAS WHICH CORRESPOND TO A DIFFERENT PLANNED DEVELOPMENT CATEGORY; AND WHERE EACH DEVELOPMENT AREA IS IDENTIFIED BY A SEPARATE LEGAL DESCRIPTION.**

§ 1-19-10.500.6 LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE PDR DISTRICT

(A) **LAND USE PERMITTED WITHIN THE PDR DISTRICT.**

GENERAL LAND USE TYPE AND LOCATION SHALL BE APPROVED BY THE BOCC IN CONCEPT AT PHASE I AND SPECIFICALLY BY THE PLANNING COMMISSION THROUGH SITE DEVELOPMENT PLAN REVIEW AT PHASE II. LAND USES PERMITTED WITHIN THE PDR DISTRICT ARE LIMITED TO:

(1) **RESIDENTIAL.** ALL RESIDENTIAL USES INCLUDING SINGLE FAMILY, DUPLEX, TOWNHOUSE, MULTIFAMILY, OR A CONTINUING CARE RETIREMENT COMMUNITY (CCRC).

(2) **COMMERCIAL.** THOSE USES PERMITTED WITHIN THE VILLAGE CENTER ZONING DISTRICT, AND FUNERAL HOMES.

(3) **EMPLOYMENT.** THOSE USES PERMITTED WITHIN THE ORI ZONING DISTRICT AS APPROVED BY THE PLANNING COMMISSION.

(4) **INSTITUTIONAL. INSTITUTIONAL USES SHALL BE LIMITED TO RECREATIONAL AND COMMUNITY ACTIVITIES, PUBLIC SERVICES AND FACILITIES, HEALTH CARE FACILITIES, SCHOOLS, AND INSTITUTIONAL USES AS PROVIDED WITHIN § 1-19-5.310 USE TABLE.**

(5) **USES WHICH ARE CUSTOMARY, ACCESSORY OR ASSOCIATED WITH USES AS PERMITTED WITHIN THIS SECTION OR SPECIFICALLY APPROVED BY THE ZONING ADMINISTRATOR INCLUDING: PRIVATE GARAGES, STORAGE SPACES, TOOL SHEDS, OR OTHER SIMILAR USES.**

(6) **A CCRC PDR OR A CCRC AS A PORTION OF A PDR MAY INCLUDE RELATED ACCESSORY USES FOR THE BENEFIT OR CONVENIENCE OF THE RESIDENTS AND THEIR GUESTS INCLUDING BUT NOT LIMITED TO: KITCHEN AND DINING FACILITIES, RESTAURANTS, PLACES OF WORSHIP, INDOOR AND OUTDOOR RECREATIONAL USES, RETAIL AND BANKING FACILITIES, BEAUTY SALON AND BARBERSHOPS, GIFT SHOPS, CLASSROOMS, MEDICAL OFFICES, MEDICAL CLINIC, LABORATORY SERVICES, EXERCISE AND VOCATIONAL ACTIVITY AREAS. A COMPLETE LISTING AND RANGE OF SQUARE FOOTAGE FOR EACH INDIVIDUAL ACCESSORY USE MUST BE SHOWN ON THE PHASE I PLAN. THE BOCC MAY DENY OR REDUCE THE SIZE, TYPE, LOCATION, AND/OR MIXTURE OF THE VARIOUS ACCESSORY USES IF DETERMINED THAT IT IS INAPPROPRIATE FOR THE SITE OR OVERALL AREA OF THE CCRC.**

(B) RESIDENTIAL LAND USE MIXTURE WITHIN THE PDR DISTRICT.

A GOAL OF THE PDR DISTRICT IS TO PROVIDE AN OPTIMAL MIXTURE OF HOUSING TYPES, INCLUDING SINGLE FAMILY DWELLINGS, TOWNHOUSES, AND MULTIFAMILY DWELLINGS. IT IS RECOGNIZED THAT EACH DEVELOPMENT PROJECT IS UNIQUE AND WILL BENEFIT FROM ITS OWN MIXTURE OF HOUSING TYPES. THE SPECIFIC MIXTURE OF HOUSING TYPES FOR EACH DEVELOPMENT PROJECT SHALL BE ESTABLISHED BY THE BOCC AT PHASE I, BASED ON AN EVALUATION OF THE FOLLOWING:

(1) **EXISTING COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION AND THE INTENDED DWELLING TYPE AND DENSITY.**

(2) **NEED FOR A PARTICULAR DWELLING TYPE BASED ON EXISTING AND PROPOSED RESIDENTIAL DWELLING TYPES SURROUNDING THE TRACT OF LAND RECEIVING THE PDR DISTRICT.**

(3) **THE COUNTY COMPREHENSIVE PLAN COMMUNITY DESIGN POLICY OF INCLUDING A VARIETY OF DWELLING TYPES IN ALL COMMUNITIES IN FREDERICK COUNTY.**

(4) **THE MIXTURE OF DWELLINGS RECOMMENDED WITHIN THE COUNTY COMPREHENSIVE, COMMUNITY, AND CORRIDOR PLANS FOR THE TRACT OF LAND RECEIVING THE PDR DISTRICT.**

(5) **THE AMOUNT AND TYPE OF MODERATELY PRICED DWELLING UNITS PROVIDED.**

(C) **COMMERCIAL LAND USE MIXTURE WITHIN THE PDR DISTRICT.**

IN ESTABLISHING THE MIXTURE OF LAND USES IN THE PDR DISTRICT THE BOCC SHALL INCLUDE AN EVALUATION OF THE RELATIONSHIP BETWEEN PROPOSED RESIDENTIAL LAND USES AND SURROUNDING EXISTING AND PROPOSED COMMERCIAL LAND USES. THIS EVALUATION SHALL ESTABLISH WHETHER EXISTING AND PROPOSED COMMERCIAL LAND USES CAN ADEQUATELY PROVIDE RETAIL, BUSINESS, AND PERSONAL SERVICES TO THE PROPOSED RESIDENTIAL LAND USE. WHERE IT IS DETERMINED THAT EXISTING AND PROPOSED COMMERCIAL AND EMPLOYMENT LAND USES WILL NOT ADEQUATELY PROVIDE FOR THE PROPOSED RESIDENTIAL LAND USE, A MINIMUM AMOUNT OF COMMERCIAL AND EMPLOYMENT LAND USES SHALL BE REQUIRED AS PART OF THE PROPOSED DEVELOPMENT. THE REQUIREMENT OF ADDITIONAL COMMERCIAL AND EMPLOYMENT LAND USES SHALL BE DETERMINED BASED ON AN EVALUATION OF THE FOLLOWING FACTORS:

(1) WHETHER THE NUMBER AND TYPE OF EXISTING OR PROPOSED COMMERCIAL/EMPLOYMENT LAND USES LOCATED WITHIN **A DISTANCE THAT MAY BE REASONABLY EXPECTED TO SERVE** A MAJORITY OF THE PROPOSED RESIDENTIAL DWELLING UNITS ADEQUATELY PROVIDE RETAIL, BUSINESS, AND PERSONAL SERVICES TO THE PROPOSED RESIDENTIAL LAND USE.

(2) WHETHER THE DESIGN OF THE PROPOSED DEVELOPMENT MAXIMIZES USE OF ALTERNATE MODES OF TRANSPORTATION (PEDESTRIAN, BICYCLE, AND TRANSIT) REDUCING THE NEED FOR VEHICULAR MOVEMENT BETWEEN RESIDENTIAL AND COMMERCIAL/EMPLOYMENT LAND USES.

(3) WHETHER THE PROPOSED DEVELOPMENT REFLECTS A LAND USE MIXTURE CONSISTENT WITH THE COUNTY COMPREHENSIVE, COMMUNITY, AND CORRIDOR PLANS.

(D) **OPEN SPACE/GREEN AREA WITHIN THE PDR DISTRICT.**

(1) OPEN SPACE/GREEN AREA WITHIN THE PROPOSED PDR DEVELOPMENT SHALL BE CALCULATED BASED ON GROSS PROJECT AREA, AND PROVIDED AT THE FOLLOWING MINIMUM RATES:

<i>GROSS DENSITY</i>	<i>REQUIRED MINIMUM PERCENTAGE OF OPEN SPACE/GREEN AREA EXCLUSIVE OF FLOODPLAIN</i>
3-6 DU/ACRE	30%
6-12 DU/ACRE	35%
12-20 DU/AC	40%

(2) THE BOCC MAY REQUIRE PUBLIC PARKS AND RECREATION FACILITIES IN ADDITION TO OPEN SPACE/GREEN AREA. (SEE ALSO § 1-19-10.500.8 (A))

(3) A REDUCTION OF NOT MORE THAN 50% OF THE OPEN SPACE/GREEN AREA REQUIREMENT MAY BE GRANTED BY THE BOARD OF COUNTY COMMISSIONERS WHERE THE BOARD FINDS THAT OPEN SPACE/GREEN AREA REQUIREMENTS ARE MET THROUGH THE USE OF LOW IMPACT DEVELOPMENT TECHNIQUES, ENVIRONMENTAL SITE DESIGN TECHNIQUES, **OPEN SPACE GREEN AREA LOCATED IN CLOSE PROXIMITY TO THE PROPOSED DEVELOPMENT (TO INCLUDE PUBLIC PARK FACILITIES)**, OR A COMBINATION THEREOF. (SEE ALSO § 1-19-10.500.8 (A)).

(E) **BUILDING SQUARE FOOTAGES WILL BE USED TO DETERMINE THE LAND USE PERCENTAGES WITHIN MIXED-USE BUILDINGS.**

(F) THE BOARD OF COUNTY COMMISSIONERS MAY IN ITS SOLE DISCRETION, DENY, REDUCE, OR INCREASE THE SIZE, TYPE, LOCATION, AND/OR MIXTURE OF THE VARIOUS LAND USE COMPONENTS IF THE BOARD DETERMINES THAT THE CHANGE IS APPROPRIATE FOR THE SITE OR OVERALL AREA OF THE PDR.

(G) AS PART OF PHASE II EXECUTION, THE PLANNING COMMISSION MAY APPROVE MINOR MODIFICATIONS TO INDIVIDUAL LAND USE LOCATION (SUCH AS SINGLE-FAMILY DETACHED, DUPLEX, OR TOWNHOUSE), PROVIDED THAT THE LOCATION OF THE OVERALL LAND USE COMPONENT (RESIDENTIAL) WITHIN THE SITE HAS NOT BEEN MODIFIED. ANY CHANGE IN THE AMOUNT OR PERCENTAGE MIX OF COMMERCIAL AND/OR RESIDENTIAL DEVELOPMENT OF A PDR PROJECT HAVING PHASE I APPROVAL, MUST BE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS **UNDER THE PROVISIONS OF THIS DIVISION.**

(H) DESIGN REQUIREMENTS: DENSITY, SETBACKS, AND HEIGHT WITHIN THE PDR DISTRICT.

(1) DENSITY

(a) GROSS DENSITY OF A PROPOSED PDR DEVELOPMENT SHALL COMPLY WITH THE FOLLOWING TABLE. THE GROSS DENSITY MAY NOT EXCEED THE MAXIMUM DENSITY SPECIFIED BY THE COUNTY COMPREHENSIVE PLAN RESIDENTIAL LAND USE DESIGNATION OF THE SUBJECT PROPERTY:

<i>COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION</i>	<i>DWELLING UNITS PER ACRE</i>
LOW DENSITY RESIDENTIAL	3-6 DU/AC
MEDIUM DENSITY RESIDENTIAL	6-12 DU/AC
HIGH DENSITY RESIDENTIAL	12-20 DU/AC

(b) WHERE THE TRACT OF LAND RECEIVING THE PDR DISTRICT HAS 2 OR MORE RESIDENTIAL LAND USE DESIGNATIONS THEN THE DENSITY MAY BE CALCULATED AS A WEIGHTED AVERAGE OF THE DENSITY RANGES AS SPECIFIED FOR THE RESIDENTIAL LAND USE DESIGNATIONS IN WHICH THE PDR IS PROPOSED.

(c) WHERE THE TRACT OF LAND RECEIVING THE PDR DISTRICT HAS BOTH RESIDENTIAL AND NATURAL RESOURCE LAND USE DESIGNATIONS THE DENSITY MAY BE CALCULATED BASED ON THE COMBINED AREA OF THE LAND USE DESIGNATIONS.

(d) THE MAXIMUM DENSITY OF THE PLANNED DEVELOPMENT DISTRICT SHALL BE APPROVED AT PHASE I BY THE BOCC AFTER REVIEW AND EVALUATION OF THE FOLLOWING FACTORS:

1. EXISTING AND PLANNED AVAILABILITY OF PUBLIC FACILITIES AND UTILITIES.

2. ACCESS TO EXISTING OR PLANNED TRANSPORTATION NETWORKS WITH CONSIDERATION THAT THE HIGHEST DENSITY COMMERCIAL, EMPLOYMENT, AND RESIDENTIAL DEVELOPMENTS SHOULD BE LOCATED NEAR ACCESS TO MAJOR THOROUGHFARES, PUBLIC TRANSPORTATION SYSTEMS, AND TRANSIT HUBS TO FACILITATE SMART GROWTH PRINCIPLES AND COMPACT DEVELOPMENT.

3. THE PHYSICAL CHARACTERISTICS OF THE SITE PROPOSED FOR DEVELOPMENT WITH PARTICULAR EMPHASIS ON DEVELOPMENT CONSTRAINTS WHICH MAY RESTRICT ACHIEVABLE DENSITY AND DWELLING TYPE, INCLUDING NATURAL FEATURES SUCH AS STEEP SLOPES AND FLOODPLAIN.

4. THE SHAPE OF THE SITE PROPOSED FOR DEVELOPMENT.
5. THE DESIGN OF THE PROPOSED DEVELOPMENT.
6. ANY OTHER RELEVANT INFORMATION THAT MAY HAVE A

BEARING ON THE ACHIEVABLE DENSITY OF THE PROPOSED DEVELOPMENT.

(e) PLANNED DEVELOPMENT DISTRICTS ARE SUBJECT TO THE MPDU REQUIREMENTS SET FORTH IN THIS CHAPTER. DENSITY BONUS WILL BE DETERMINED AS PART OF THE PHASE I REVIEW PROCESS.

(2) SETBACKS AND HEIGHT

(a) SETBACKS SHALL BE ESTABLISHED BY THE PLANNING COMMISSION AT PHASE II CONSISTENT WITH THE GENERAL DEVELOPMENT STANDARDS AS PROVIDED IN § 1-19-10.500.9, REFLECTING THE PROPOSED DEVELOPMENT PATTERN AND LAND USE WITHIN THE PHASE I PROJECT CONCEPT PLAN OR PORTION THEREOF, REFLECTING THE LOCATION OF THE PROJECT WITHIN THE COUNTY, AND CONSISTENT WITH THE APPROPRIATE COMMUNITY AND CORRIDOR PLANS. (SEE ALSO § 1-19-10.500.9(D))

(b) THE HEIGHT OF PRINCIPAL STRUCTURES WITHIN THE PDR DISTRICT SHALL NOT EXCEED 45' WITHIN THE COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION OF LDR, 60' WITHIN THE MDR LAND USE DESIGNATION, AND 80' WITHIN THE HDR LAND USE DESIGNATION, EXCEPT FOR SINGLE FAMILY DWELLINGS WHICH SHALL NOT EXCEED A MAXIMUM HEIGHT OF 35' WITHIN THE LDR, MDR, OR HDR LAND USE DESIGNATION. (SEE ALSO § 1-19-10.500.9(D))

§ 1-19-10.500.7 LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE PDE DISTRICT

(A) LAND USE PERMITTED WITHIN THE PDE DISTRICT.

GENERAL LAND USE TYPE AND LOCATION SHALL BE ESTABLISHED BY THE BOCC IN CONCEPT AT PHASE I AND SPECIFICALLY BY THE PLANNING COMMISSION THROUGH SITE DEVELOPMENT PLAN REVIEW AT PHASE II. LAND USES PERMITTED WITHIN THE PDE DISTRICT ARE LIMITED TO:

(1) RESIDENTIAL. MEDIUM DENSITY AND HIGH DENSITY RESIDENTIAL USES INCLUDING SINGLE FAMILY, TOWNHOUSE, AND MULTIFAMILY. RESIDENTIAL LAND USES SHALL BE PERMITTED WITHIN THE LIMITED INDUSTRIAL AND OFFICE RESEARCH INDUSTRIAL LAND USE DESIGNATIONS ONLY AS IDENTIFIED WITHIN THE COMPREHENSIVE, COMMUNITY, OR CORRIDOR PLAN.

(2) COMMERCIAL. THOSE USES PERMITTED WITHIN THE GENERAL COMMERCIAL ZONING DISTRICT EXCEPT FOR THE FOLLOWING: AUCTION HOUSE, LUMBER YARD, MOBILE HOME SALES, BOAT SALES, AND SERVICE, FARM EQUIPMENT SALES AND SERVICE, CARPENTRY, ELECTRIC, PLUMBING, WELDING, PRINTING AND UPHOLSTERING ESTABLISHMENTS, FENCING/POOL/SIDING CONTRACTORS, AGRICULTURAL PRODUCTS PROCESSING, BOTTLING PLANT, STONE MONUMENT PROCESSING AND SALES, BUS DEPOT, ANIMAL AUCTION SALES, AND RACETRACK.

(3) EMPLOYMENT. EMPLOYMENT SHALL BE LIMITED TO THOSE USES PERMITTED WITHIN THE OFFICE RESEARCH INDUSTRIAL ZONING DISTRICT.

(4) INSTITUTIONAL. INSTITUTIONAL USES SHALL BE LIMITED TO RECREATIONAL AND COMMUNITY ACTIVITIES, PUBLIC SERVICES AND FACILITIES, HEALTH CARE FACILITIES, SCHOOLS, AND INSTITUTIONAL USES AS PROVIDED WITHIN § 1-19-5.310 USE TABLE.

(5) USES WHICH ARE CUSTOMARY, ACCESSORY OR ASSOCIATED WITH PERMITTED USES AS PROVIDED WITHIN THIS CHAPTER, OR THOSE ACCESSORY USES SPECIFICALLY APPROVED BY THE ZONING ADMINISTRATOR.

(B) LAND USE MIXTURE WITHIN THE PDE DISTRICT.

(1) LAND USE MIXTURE WITHIN THE PDE DISTRICT SHALL BE ESTABLISHED BY THE BOCC AT PHASE I IN ACCORDANCE WITH THE FOLLOWING:

<i>LAND USE</i>	<i>MINIMUM PERCENTAGE OF TOTAL PROJECT</i>	<i>MAXIMUM PERCENTAGE OF TOTAL PROJECT</i>
RESIDENTIAL	N/A	25% GROSS PROJECT ACREAGE EXCLUSIVE OF FLOODPLAIN
COMMERCIAL (WHERE PROJECT INCLUDES RESIDENTIAL COMPONENT)	N/A	25% GROSS PROJECT ACREAGE EXCLUSIVE OF FLOODPLAIN
COMMERCIAL (WHERE PROJECT DOES NOT INCLUDE RESIDENTIAL COMPONENT)	N/A	45% GROSS PROJECT ACREAGE EXCLUSIVE OF FLOODPLAIN
COMBINED COMMERCIAL AND RESIDENTIAL PORTIONS OF THE PDE	N/A	40% GROSS PROJECT ACREAGE OR 50% OF THE GROSS PROJECT ACREAGE EXCLUSIVE OF FLOODPLAIN, WHICHEVER IS LESS
OPEN SPACE/GREEN AREA	20% OF TOTAL AREA DEVOTED TO COMMERCIAL AND EMPLOYMENT/INDUSTRIAL USES	N/A
	30% OF TOTAL AREA DEVOTED TO RESIDENTIAL USES	
THE REMAINDER OF THE SITE SHALL BE USED FOR EMPLOYMENT, CIVIC/INSTITUTIONAL, AND CULTURAL USES		

(2) A MIXTURE OF RESIDENTIAL AND COMMERCIAL/EMPLOYMENT LAND USES SHALL BE PROVIDED WITHIN THE PDE DISTRICT WHERE APPLIED TO AREAS REFLECTING A COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION OF MIXED USE DEVELOPMENT. THE PROPOSED DEVELOPMENT SHALL PROVIDE A MIXTURE OF LAND USES CONSISTENT WITH APPLICABLE COUNTY COMMUNITY OR CORRIDOR PLANS.

(3) THE BOCC MAY REQUIRE PUBLIC PARKS AND RECREATION FACILITIES IN ADDITION TO OPEN SPACE/GREEN AREA. (SEE ALSO § 1-19-10.500.8 (A)).

(4) A REDUCTION OF NOT MORE THAN 50% OF THE OPEN SPACE/GREEN AREA REQUIREMENT MAY BE GRANTED BY THE BOARD OF COUNTY COMMISSIONERS WHERE THE BOARD FINDS THAT OPEN SPACE/GREEN AREA REQUIREMENTS ARE MET THROUGH THE USE OF LOW IMPACT DEVELOPMENT TECHNIQUES, ENVIRONMENTAL SITE DESIGN TECHNIQUES, **OPEN SPACE GREEN AREA LOCATED IN CLOSE PROXIMITY TO THE PROPOSED DEVELOPMENT (TO INCLUDE PUBLIC PARK FACILITIES)**, OR A COMBINATION THEREOF. (SEE ALSO § 1-19-10.500.8 (A)).

(C) BUILDING SQUARE FOOTAGES WILL BE USED TO DETERMINE THE LAND USE PERCENTAGES WITHIN MIXED-USE BUILDINGS.

(D) THE BOARD OF COUNTY COMMISSIONERS MAY IN ITS SOLE DISCRETION, DENY, REDUCE, OR INCREASE THE SIZE, TYPE, LOCATION, AND/OR MIXTURE OF THE VARIOUS LAND USE COMPONENTS IF THE BOARD DETERMINES THAT THE CHANGE IS APPROPRIATE FOR THE SITE OR OVERALL AREA OF THE PDE AND NECESSARY TO ACHIEVE THE PURPOSE AND INTENT OF THE PDE DISTRICT.

(E) AS PART OF PHASE II EXECUTION, THE PLANNING COMMISSION MAY APPROVE MINOR MODIFICATIONS TO INDIVIDUAL LAND USE LOCATION (SUCH AS SINGLE-FAMILY DETACHED, DUPLEX, OR TOWNHOUSE), PROVIDED THAT THE LOCATION OF THE OVERALL LAND USE COMPONENT (RESIDENTIAL) WITHIN THE SITE HAS NOT BEEN MODIFIED. ANY CHANGE IN THE AMOUNT OR PERCENTAGE MIX OF COMMERCIAL AND/OR RESIDENTIAL DEVELOPMENT OF A PDE PROJECT HAVING PHASE I APPROVAL, MUST BE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS AS A NEW PHASE I APPLICATION.

(F) DESIGN REQUIREMENTS: DENSITY, SETBACKS, AND HEIGHT WITHIN THE PDE DISTRICT.

(1) DENSITY

(a) GROSS DENSITY WITHIN A PDE DISTRICT INCLUDING RESIDENTIAL DWELLING UNITS SHALL BE ESTABLISHED BY THE BOCC AT PHASE I.

(b) THE MAXIMUM DENSITY OF THE PLANNED DEVELOPMENT DISTRICT SHALL BE ESTABLISHED AT PHASE I BY THE BOCC AFTER REVIEW AND EVALUATION OF THE FOLLOWING FACTORS:

1. EXISTING AND PLANNED AVAILABILITY OF PUBLIC FACILITIES AND UTILITIES.

2. ACCESS TO EXISTING OR PLANNED TRANSPORTATION NETWORKS WITH CONSIDERATION THAT THE HIGHEST DENSITY COMMERCIAL, EMPLOYMENT, AND RESIDENTIAL DEVELOPMENTS SHOULD BE LOCATED NEAR ACCESS TO MAJOR THOROUGHFARES, PUBLIC TRANSPORTATION SYSTEMS, AND TRANSIT HUBS TO FACILITATE SMART GROWTH PRINCIPLES AND COMPACT DEVELOPMENT.

3. THE PHYSICAL CHARACTERISTICS OF THE SITE PROPOSED FOR DEVELOPMENT WITH PARTICULAR EMPHASIS ON DEVELOPMENT CONSTRAINTS WHICH MAY RESTRICT ACHIEVABLE DENSITY AND DWELLING TYPE, INCLUDING NATURAL FEATURES SUCH AS STEEP SLOPES AND FLOODPLAIN.

4. THE SHAPE OF THE SITE PROPOSED FOR DEVELOPMENT.

5. THE DESIGN OF THE PROPOSED DEVELOPMENT.

6. ANY OTHER RELEVANT INFORMATION THAT MAY HAVE A BEARING ON THE ACHIEVABLE DENSITY OF THE PROPOSED DEVELOPMENT.

(c) PLANNED DEVELOPMENT DISTRICTS ARE SUBJECT TO THE MPDU REQUIREMENTS SET FORTH IN THIS CHAPTER. DENSITY BONUS WILL BE DETERMINED AS PART OF THE PHASE I REVIEW PROCESS.

(d) WHERE A PORTION OF THE TRACT OF LAND RECEIVING THE PDE DISTRICT REFLECTS THE NATURAL RESOURCE LAND USE DESIGNATION THE DENSITY MAY BE CALCULATED BASED ON THE COMBINED AREA OF THE LAND USE DESIGNATIONS.

(2) SETBACKS AND HEIGHT

(a) SETBACKS WITHIN THE PDE DISTRICT SHALL BE ESTABLISHED BY THE PLANNING COMMISSION AT PHASE II CONSISTENT WITH THE GENERAL DEVELOPMENT STANDARDS AS PROVIDED IN § 1-19-10.500.9, REFLECTING THE PROPOSED DEVELOPMENT PATTERN AND LAND USE WITHIN THE PHASE I PROJECT CONCEPT PLAN OR PORTION THEREOF, REFLECTING THE LOCATION OF THE PROJECT WITHIN THE COUNTY, AND CONSISTENT WITH THE APPROPRIATE COMMUNITY AND CORRIDOR PLANS. (SEE ALSO § 1-19-10.500.9(D))

(b) THE HEIGHT OF PRINCIPAL STRUCTURES WITHIN THE PDE DISTRICT SHALL NOT EXCEED 35' FOR SINGLE FAMILY AND DUPLEX DWELLINGS, AND 60' FOR ALL OTHER PERMITTED LAND USES. (SEE ALSO § 1-19-10.500.9(D))

§ 1-19-10.500.8 PUBLIC FACILITIES AND UTILITIES WITHIN THE PLANNED DEVELOPMENT DISTRICTS

(A) PARKS AND RECREATION. PARKS AND RECREATION FACILITIES SHALL BE PROVIDED FOR THE RESIDENTIAL PORTION OF PDR AND PDE DEVELOPMENTS THROUGH A COMBINATION OF ACTIVE AND PASSIVE AMENITIES AS APPROVED BY THE BOCC IN ACCORDANCE WITH THE FOLLOWING:

(1) PARKS AND RECREATION FACILITIES MAY BE REQUIRED IN ADDITION TO OPEN SPACE/GREEN AREA BASED ON AN EVALUATION OF EXISTING PARKS AND RECREATION FACILITIES OR PARKS AND RECREATION FACILITIES PROPOSED AS A PORTION OF THE PLANNED DEVELOPMENT DISTRICT.

(2) PARKS AND RECREATION FACILITIES SHALL BE PROVIDED AT A RATE OF 726 SQUARE FEET PER 2,000 SQUARE FEET OF GROSS FLOOR AREA

(3) THOSE AREAS CONTAINING FLOODPLAIN, STEEP SLOPES, WETLANDS, FLOODING SOILS, OR OTHER SIMILAR FEATURES MAY BE UTILIZED TOWARD MEETING PASSIVE RECREATION REQUIREMENTS WHERE LAND DISTURBANCE AND CLEARING ARE MINIMIZED.

(4) WHERE PUBLIC PARK FACILITIES ARE REQUIRED IN ADDITION TO OPEN SPACE/GREEN AREA, THE BOCC MAY APPROVE THE USE OF PASSIVE RECREATION AMENITIES SUCH AS FLOODPLAIN, WETLANDS, STEEP SLOPES, FLOODING SOILS OR OTHER SIMILAR FEATURES IN MEETING OPEN SPACE/GREEN AREA REQUIREMENTS

(B) OTHER PUBLIC FACILITIES. THE BOCC MAY REQUIRE ADDITIONAL SITES FOR OTHER PUBLIC FACILITIES INCLUDING SCHOOLS, LIBRARY SERVICES, OR A FIRE AND EMERGENCY MEDICAL SERVICE SITE TO SERVE THE PROPOSED DEVELOPMENT WHERE THE **BOCC DETERMINES THAT A NEED EXISTS** BASED ON ESTABLISHED COUNTY STANDARDS OF SERVICE.

§ 1-19-10.500.9 GENERAL DEVELOPMENT STANDARDS WITHIN THE PLANNED DEVELOPMENT DISTRICTS

THE FOLLOWING GENERAL DEVELOPMENT STANDARDS SHALL BE MET AT THE TIME OF SITE DEVELOPMENT PLAN REVIEW **UNLESS MODIFIED BY THE PLANNING COMMISSION AS PROVIDED IN § 1-19-10.500.9(D).**

(A) SITE AND BUILDING DESIGN.

(1) **PARKING, LOADING, LANDSCAPING, LIGHTING, SETBACKS, AND HEIGHT** SHALL BE PROVIDED IN ACCORDANCE WITH THIS CHAPTER.

(2) **LAND USES SHALL BE INTEGRATED SO AS TO PROVIDE: BICYCLE, PEDESTRIAN, TRANSIT, AND VEHICULAR CONNECTIONS BETWEEN LAND USE BAYS; SITE DESIGN AND BUILDING PLACEMENT THAT FACILITATES LAND USE INTERACTION RATHER THAN SEPARATION; LAND USE LOCATION THAT PROVIDES FOR A TRANSITION BETWEEN LAND USES IN BOTH DESIGN AND INTENSITY, RATHER THAN SEGREGATION OF LAND USES.**

(3) **PEDESTRIAN WALKWAYS AND CROSSINGS SHALL PROVIDE CONVENIENT AND SAFE ACCESS LINKING BUILDINGS, PARKING AREAS, TRANSIT FACILITIES, PEDESTRIAN FACILITIES, AND RECREATION AREAS.**

(4) **PEDESTRIAN WALKWAYS AND CROSSINGS SHALL BE MARKED OR CONSTRUCTED OF MATERIALS TO PROVIDE A DISTINCTION FROM AREAS OF VEHICULAR MOVEMENT.**

(5) **MAXIMUM BLOCK LENGTH WITHIN THE PROPOSED DEVELOPMENT AND MAXIMUM BUILDING FOOTPRINT OF COMMERCIAL STRUCTURES (AS PROVIDED IN § 1-19-10.500.6(A)(2) AND § 1-19-10.500.7(A)(2)) SHALL BE APPROVED BY THE PLANNING COMMISSION REFLECTING THE OVERALL PROPOSED PROJECT DEVELOPMENT PATTERN, THE LOCATION OF THE PROJECT WITHIN THE COUNTY, AND CONSISTENCY WITH APPLICABLE COMMUNITY AND CORRIDOR PLANS.**

(6) **BUILDINGS SHALL PREDOMINANTLY BE DESIGNED AND CONSTRUCTED TO INCLUDE FINISHES AND MATERIALS OF CONSISTENT QUALITY AND DESIGN ON ALL SIDES SUCH AS: CHANGES IN BUILDING PLANE, WINDOWS, DOORWAYS, ENTRANCES, OVERHANGING EAVES, AND SHUTTERS. BUILDINGS MAY NOT INCLUDE LARGE EXPANSES OF UNDIFFERENTIATED FAÇADES AND LONG PLAIN WALL SECTIONS.**

(7) **BUILDING DESIGN SHALL REFLECT THE MATERIALS AND ARCHITECTURE OF TRADITIONAL VILLAGES AND TOWNS THROUGHOUT FREDERICK COUNTY AND CENTRAL MARYLAND UNLESS OTHERWISE PROVIDED WITHIN COUNTY COMMUNITY AND CORRIDOR PLANS.**

(8) **BUILDINGS SHALL BE DESIGNED AND ORIENTED IN TERMS OF THEIR RELATIONSHIP TO THE HUMAN SCALE AND SHALL REFLECT THIS RELATIONSHIP THROUGH THE INCLUSION OF HUMAN-SCALED ARCHITECTURAL ELEMENTS SUCH AS, BUT NOT, LIMITED TO: PORCHES, WINDOWS, DOORS, BALCONIES, TERRACES, CANOPIES, AND OTHER PEDESTRIAN AMENITIES.**

(9) **BUILDINGS SHALL PROVIDE A PRIMARY PEDESTRIAN ENTRANCE ONTO A STREET, SQUARE, PLAZA, OR SIDEWALK.**

(10) **BUILDINGS SHALL BE ORIENTED SO THAT REAR ENTRANCES AND REAR FAÇADES FACE AWAY FROM ROADWAYS, PEDESTRIAN AND PUBLIC AREAS.**

(11) **AS MANY BUILDINGS AS POSSIBLE SHALL BE ORIENTED TO PEDESTRIAN WAYS, LOCAL PUBLIC STREETS, OR INTERNAL ROADWAYS IN LARGER DEVELOPMENTS.**

(12) BUILDING PLACEMENT SHALL PROVIDE FOR THE CONCENTRATION OF SERVICE ENTRANCES, MECHANICAL EQUIPMENT, UTILITIES AND NON-PUBLIC FACILITIES (I.E. REFUSE CONTAINERS OR OUTSIDE STORAGE) AWAY FROM PUBLIC ACCESS AREAS.

(13) BUILDING AND SITE DESIGN SHALL BE ORIENTED TO PROVIDE SAFE AND CONVENIENT ACCESS TO PUBLIC TRANSIT FACILITIES IN ACCORDANCE WITH THE FREDERICK COUNTY TRANSIT-FRIENDLY DESIGN GUIDELINES.

(14) PARKING SHALL BE PREDOMINANTLY LOCATED TO THE SIDE AND OR REAR OF BUILDINGS.

(15) PARKING LOTS MAY NOT CREATE LONG EXPANSES OF EMPTY STREET FRONTAGE.

(16) PROJECTS SHALL BE DESIGNED TO LINK TO EXISTING AND PLANNED TRANSPORTATION NETWORKS, INCORPORATE AN INTERCONNECTED STREET GRID, AND SHALL AVOID COMMERCIAL ‘STRIP’ DEVELOPMENT WHERE VEHICULAR ACCESS IS ACHIEVED DIRECTLY TO A COLLECTOR CLASSIFICATION ROADWAY OR HIGHER.

(17) SHARED ACCESS AND INTERIOR DRIVES WITH ALLOWANCE FOR INTERCONNECTION BETWEEN PROPERTIES SHALL BE PROVIDED WHERE FEASIBLE. THE PLANNING COMMISSION MAY REQUIRE CONSOLIDATION OF MULTIPLE ACCESS POINTS IN COMPLYING WITH THIS STANDARD. AT THE REAR OF PROPERTIES ACCESS SHOULD BE PROVIDED BY ALLEYWAYS OR PARKING LOT INTERCONNECTIONS.

(18) TO THE EXTENT PRACTICAL, SHARED AND JOINT USE PARKING SHALL BE INTEGRATED INTO THE OVERALL PARKING PLAN TO ACHIEVE A REDUCTION IN ON-SITE PARKING AND IMPERVIOUS SURFACE.

(19) NOISE ATTENUATION STANDARDS AS APPROVED BY THE PLANNING COMMISSION INCLUDING WALLS, FENCES, BERMS AND LANDSCAPING, ACOUSTICAL BUILDING MATERIALS, AND/OR INCREASED SETBACKS SHALL BE UTILIZED TO MITIGATE NEGATIVE IMPACTS WHERE RESIDENTIAL DEVELOPMENT IS PROPOSED ADJACENT TO AN ARTERIAL OR FREEWAY/EXPRESSWAY AS IDENTIFIED IN THE COUNTY COMPREHENSIVE PLAN.

(20) PARKS, OPEN SPACES, PLAZAS, COURTYARDS, GREEN AREAS, RECREATION AREAS, CIVIC SPACES, AND COMMUNITY FACILITIES SHALL BE DESIGNED AND LOCATED IN SUCH A WAY AS TO MAXIMIZE THEIR PROXIMITY, CONVENIENCE, AND PHYSICAL ACCESSIBILITY TO THE GREATEST NUMBER OF POTENTIAL USERS IN THE PLANNED DEVELOPMENT DISTRICT. SUCH AMENITIES SHALL SERVE AS CENTRAL ORGANIZING FEATURES OF THE DEVELOPMENT AND SHALL SERVE TO ENHANCE THE PEDESTRIAN AND BICYCLING ENVIRONMENT OF THE PROPOSED DEVELOPMENT.

(21) EXISTING SITE STRUCTURES AND FEATURES SHALL BE EVALUATED FOR THE FEASIBILITY OF PRESERVATION AND INTEGRATION INTO THE PROPOSED DEVELOPMENT. THE EVALUATION SHALL INCLUDE BUILDINGS, SITES, STRUCTURES, OR OTHER OBJECTS AS LISTED ON OR ELIGIBLE FOR THE NATIONAL REGISTER OF HISTORIC PLACES, FREDERICK COUNTY REGISTER OF HISTORIC PLACES, OR AS LISTED ON THE MARYLAND INVENTORY OF HISTORIC PROPERTIES.

(B) NATURAL FEATURES.

(1) INsofar AS PRACTICAL, THE LANDSCAPE SHALL BE PRESERVED IN ITS NATURAL STATE BY:

- (a) MINIMIZING TREE AND SOIL REMOVAL OR DISTURBANCE;
- (b) SITING BUILDINGS TO PROTECT AND ENHANCE THE RELATIONSHIP BETWEEN THE BUILDINGS AND THE NATURAL TERRAIN;

(c) RETAINING EXISTING TREE LINES, FORESTED AREAS, AND ROCK FORMATIONS REDUCING VISUAL IMPACTS OF DEVELOPMENT ON SURROUNDING PROPERTIES AND RIGHTS-OF-WAY;

(d) ESTABLISHING AND PRESERVING CONNECTIVITY OF AND BETWEEN NATURAL FEATURES.

(2) WHERE THE PLANNED DEVELOPMENT DISTRICT HAS BEEN APPLIED TO A COUNTY COMPREHENSIVE PLAN LAND USE DESIGNATION OF NATURAL RESOURCE, THE AREA DESIGNATED NATURAL RESOURCE MAY NOT BE DEVELOPED WITH DWELLING UNITS OR COMMERCIAL/EMPLOYMENT STRUCTURES, AND ROADWAYS AND VEHICULAR CROSSINGS SHALL BE MINIMIZED.

(C) PUBLIC FACILITIES AND UTILITIES.

(1) THE LOCATION, DESIGN, AND EXTENT OF PUBLIC FACILITIES SHALL BE PROVIDED IN ACCORDANCE WITH COUNTY STANDARDS AND THE COUNTY COMPREHENSIVE PLAN.

(2) WATER AND SEWER. PLANNED DEVELOPMENTS SHALL BE SERVED BY PUBLICLY OWNED COMMUNITY WATER AND SEWER.

(3) TRANSPORTATION. THE LOCATION AND DESIGN OF ROADS WILL BE IN ACCORDANCE WITH THE COUNTY COMPREHENSIVE PLAN, COUNTY SUBDIVISION REGULATIONS, AND THE COUNTY STREETS AND ROADS DESIGN MANUAL.

(4) UTILITIES. ALL UTILITY LINES SHALL BE PLACED UNDERGROUND.

(5) OWNERSHIP AND MAINTENANCE.

(a) STREETS DEDICATED TO PUBLIC USE SHALL, AFTER ACCEPTANCE BY THE BOARD OF COUNTY COMMISSIONERS, BE MAINTAINED BY THE COUNTY.

(b) STREETS, ALLEYWAYS OR PARKING AREAS NOT DEDICATED TO PUBLIC USE OR NOT ACCEPTED BY THE BOARD OF COUNTY COMMISSIONERS SHALL BE CONSTRUCTED TO ESTABLISHED COUNTY STANDARDS AND SHALL BE MAINTAINED BY A PROPERTY OWNERS ASSOCIATION, CONDOMINIUM ASSOCIATION, OR SIMILAR ORGANIZATION.

(c) OPEN SPACE/GREEN AREA AND PARKS AND RECREATION AREAS MAY BE OWNED AND MAINTAINED BY THE COUNTY, OR BY A HOME OWNERS ASSOCIATION, CONDOMINIUM ASSOCIATION OR SIMILAR ORGANIZATION, SUBJECT TO THE APPROVAL OF THE PLANNING COMMISSION AND ACCEPTANCE BY THE BOARD OF COUNTY COMMISSIONERS.

(D) MODIFICATIONS

AS PART OF A PLANNED DEVELOPMENT PHASE II APPROVAL, THE PLANNING COMMISSION MAY APPROVE MODIFICATIONS TO SETBACKS, HEIGHT, PARKING, LOADING, STREET DESIGN, LANDSCAPING, SCREENING, BUFFERING REQUIREMENTS, AND GENERAL DEVELOPMENT STANDARDS AS PROVIDED IN § 1-19-10.500.9(A). IN GRANTING A MODIFICATION THE PLANNING COMMISSION MAY REQUIRE ALTERATIONS TO BUILDING AND SITE DESIGN WHERE A MODIFICATION HAS BEEN GRANTED, TO MINIMIZE NEGATIVE IMPACTS ON SURROUNDING PROPERTIES THAT MAY RESULT FROM THE MODIFICATION. THE BUILDING AND SITE DESIGN MODIFICATIONS MAY INCLUDE: LOCATION OF PUBLIC ACCESS, BUFFERING AND SCREENING, LANDSCAPING, LIGHTING, OUTDOOR RECREATION AREAS, BUILDING LOCATION AND ORIENTATION.

§ 1-19-10.500.10 SPECIFIC DEVELOPMENT STANDARDS WITHIN THE PLANNED DEVELOPMENT DISTRICTS

(A) WHERE A CONTINUING CARE RETIREMENT COMMUNITY (CCRC) CONSTITUTES AN ENTIRE PDR APPLICATION (CCRC PDR), THE TRACT SHALL HAVE A MINIMUM LOT WIDTH OF 200 FEET AND A MINIMUM LOT SIZE OF 5 ACRES.

(B) IF ANY DEVELOPMENT OR PORTION THEREOF REQUESTS DESIGNATION AS AN AGE-RESTRICTED COMMUNITY FOR THE PURPOSE OF BEING EXEMPT FROM THE ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO) SCHOOLS TEST UNDER § 1-20-7(E), THIS REQUEST MUST BE MADE AS PART OF THE APPLICANT'S PHASE I APPLICATION, INDICATING THE NUMBER AND LOCATION OF THE PROPOSED AGE-RESTRICTED DWELLING UNITS.

(C) THE PLANNING COMMISSION AND THE BOCC, IN THEIR RESPECTIVE REVIEWS OF THE PROPOSED DEVELOPMENT, SHALL CONSIDER THE FOLLOWING CRITERIA TO DETERMINE WHETHER THE PROJECT OR PORTION THEREOF MAY BE APPROVED FOR DESIGNATION AS AN AGE RESTRICTED COMMUNITY:

- (1) ACTIVE AND PASSIVE RECREATIONAL AMENITIES.
- (2) AVAILABILITY, SUITABILITY AND PROXIMITY OF THE DEVELOPMENT TO PLANNED SUPPORT SERVICES.
- (3) THE AMOUNT OF EXISTING AND APPROVED AGE-RESTRICTED DEVELOPMENT IN THE COUNTY AND IN PROXIMITY TO THE PROPOSED DEVELOPMENT.

(D) AN ADAPTIVE REUSE PROJECT IS NOT REQUIRED TO BE DESIGNATED AT PHASE I AS AN AGE-RESTRICTED COMMUNITY IN ORDER TO APPLY FOR THE EXEMPTION FROM THE APFO SCHOOLS TEST UNDER § 1-20-7(E).

§ 1-19-10.500.11 TRANSITIONAL PROVISIONS FOR MIXED-USE DEVELOPMENTS (MXD) AND PLANNED UNIT DEVELOPMENTS (PUD)

(A) MIXED-USE DEVELOPMENTS (MXD) AND PLANNED UNIT DEVELOPMENTS (PUD) WITH PHASE I **AND** PHASE II APPROVAL AS OF [THE EFFECTIVE DATE OF THIS ORDINANCE]:

(1) SHALL RETAIN EXISTING APPROVALS INCLUDING THE LAND USE INTENSITY AND DENSITY RATING AS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS.

(2) **AMENDMENTS TO EXISTING PHASE I OR PHASE II APPROVALS THAT INCREASE INTENSITY OR DENSITY SHALL COMPLY WITH THE PROVISIONS OF THIS DIVISION.**

(B) **MIXED-USE DEVELOPMENTS (MXD) AND PLANNED UNIT DEVELOPMENTS (PUD) WITH PHASE I APPROVAL BUT WITHOUT PHASE II APPROVAL [AS OF THE EFFECTIVE DATE OF THIS ORDINANCE], SHALL COMPLY WITH THE PHASE II PROVISIONS OF THIS DIVISION.**

~~DIVISION 7. PLANNED UNIT DEVELOPMENT DISTRICT (PUD) RESERVED~~
~~§ 1-19-10.700 PLANNED UNIT DEVELOPMENT (PUD). RESERVED~~
~~§ 1-19-10.700.1. PURPOSE.~~

~~—The Planned Unit Development District (PUD) is a floating zone which is established for the purpose of providing for small and large scale developments incorporating a variety of residential and related uses which are planned and developed as a unit.~~

~~(Ord. 08-26-502, 10-14-2008)~~

~~§ 1-19-10.700.2. GENERAL PROVISIONS.~~

~~—(A) (1) This section permits such flexibility and provides performance criteria for planned developments to produce:~~

~~_____ (a) A development based on density and intensity of use and the relationship between land uses rather than on standardized districts which are segregated from each other on the basis of housing type;~~

~~_____ (b) Development flexibility to respond to market demands;~~

~~_____ (c) A maximum choice in the types of environment and living units available to the public;~~

~~_____ (d) Open space and recreation areas;~~

~~_____ (e) A pattern of development which preserves trees, outstanding natural topography and geologic features and prevents soil erosion;~~

~~_____ (f) A creative approach to the use of land and related physical development;~~

~~_____ (g) An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs;~~

~~_____ (h) Common land which is an essential and major element of the plan and which is related to and affects the longterm value of the homes and other development.~~

~~_____ (2) The planning unit developments having Phase I approval under the previous zoning regulations shall retain the land use intensity rating (L.U.I.) previously approved by the Board of County Commissioners for them, shall be subject to the procedures provided in this chapter.~~

~~(B) The location of a PUD as a floating zone is restricted to the residential areas as delineated in the adopted County Comprehensive Development Plan. Specifically, these areas are identified on the Comprehensive Development Plan Map as low density residential, medium density residential or high density residential.~~

~~(C) (1) There shall be no minimum tract size, lot area, or lot width for a PUD. However, where a continuing care retirement community (CCRC) constitutes an entire PUD application (CCRC PUD), the tract shall have a minimum lot width of 200 feet and a minimum lot size of 5 acres.~~

~~_____ (a) The setbacks of structures within a PUD shall be as follows:~~

~~—Front yard— minimum 25 foot setback~~

~~Side yard minimum 8 foot setback~~

~~Rear yard minimum 25 foot setback~~

~~The setbacks for structures within a CCRC PUD shall be as follows:~~

~~Front yard minimum 40 foot setback~~

~~Side yard minimum 50 foot setback~~

~~Rear yard minimum 50 foot setback~~

~~(b) Provided, however, that where the applicant submits a comprehensive site plan for 3 or more contiguous structures or lots, the applicant may propose a reduction or modification to the above minimum setbacks. Any site plan which proposes a reduction or modification to the above minimum setbacks shall be subject to the normal posting requirements for site plans as provided in § 1-19-3.300.1 of this Code. The Planning Commission may approve such reductions or modifications based upon:~~

~~1. Consistency with the PUD Phase II land use plan densities approved for the section of the project;~~

~~2. Compatibility with the pattern of or relationship to existing development on adjacent or confronting lots;~~

~~3. Conformity with county adopted community design guidelines;~~

~~4. Consistency with the objectives of the PUD zone as defined in subsection (A) above.~~

~~(2) Accessory structures may be located anywhere on the lot except the required front yard setback area and may project to the lot lines but in all cases they must be located a minimum of 6 feet from any structure on an adjoining lot.~~

~~(3) Setbacks and height limitations for structures over 3 stories or 30 feet shall be determined by the Planning Commission with site plan approval.~~

~~(4) Notwithstanding any other provision of this chapter, within areas designated "Mixed Use Town Center" or "Mixed Use Village Center" on an approved Phase II Plan, the applicant may propose, and the Planning Commission may approve, design criteria, dimensional requirements, and/or parking and loading requirements that are not in conformance with existing zoning and subdivision regulations. These modifications may include, but will not necessarily be limited to: setbacks, parking, loading spaces, rights of way widths, street design and landscaping. These modifications may be granted by the Planning Commission at the time of preliminary plan and/or site plan approval provided that a comprehensive concept plan has been submitted for the Mixed Use Town Center and/or Mixed Use Village Area. In determining whether to grant a requested modification under this section, the Planning Commission may consider whether the requested modification tends to achieve excellence of design, to create a particular community theme, to make an efficient use of land, to provide suitable amenities for the center, and/or to create a community which reduces reliance on vehicular transportation.~~

~~(D) (1) The gross density of the PUD is set in the following table and will not exceed the maximum density specified for the residential classification of the Comprehensive Development Plan for the area in which the PUD is proposed.~~

<i>Comprehensive—Development Plan Classification</i>	Density
Low Density Residential	1-5 hu/acre
Medium Density Residential	5-11 hu/acre
High Density Residential	10-18 hu/acre

~~_____ (2) Such density is calculated on the basis of only that land area classified as residential in the Comprehensive Development Plan and will be set by the Board of County Commissioners and will be within the ranges set by the above density table. If the PUD is located within 2 or more residential classifications then the density to be set may reflect a weighted average of the density ranges specified for the residential classification in which the PUD is proposed. The weighted average shall be based upon the percentage of land area in each classification. PUDs are subject to the requirements of Division 8 of this chapter. Density bonus will be determined as part of the PUD review process.~~

~~(E) The criteria for setting the density of the PUD includes:~~

~~_____ (1) Existing and planned availability of public services; and~~

~~_____ (2) Access to existing or planned major thoroughfares and transportation systems; and~~

~~_____ (3) The physical characteristics of the site with particular emphasis on restraints to development including steep slopes or floodplains; and~~

~~_____ (4) The shape of the tract of land; and~~

~~_____ (5) The proposed design of the PUD; and~~

~~_____ (6) Any other relevant information which may have a bearing on the development capacity of the PUD.~~

~~_____ (7) If any development or portion thereof requests designation as an age restricted community for the purpose of being exempt from the Adequate Public Facilities Ordinance (APFO) schools test under § 1-20-7(E), this request must be made as part of the applicant's Phase I (rezoning) application, indicating the number and location of the proposed age restricted dwelling units.~~

~~_____ (a) The Planning Commission and the BOCC, in their respective reviews of the proposed development, shall consider the following criteria to determine whether the project or portion thereof may be approved for designation as an age restricted community:~~

~~_____ 1. Active and passive recreational amenities.~~

~~_____ 2. Availability, suitability and proximity of the development to planned support services.~~

~~_____ 3. The amount of existing and approved age restricted development in the county and in proximity to the proposed development.~~

~~_____ (b) An adaptive reuse project is not required to be designated at Phase I as an age restricted community in order to apply for the exemption from the APFO schools test under § 1-20-7(E).~~

~~(F) Land use activities are permitted within a PUD as follows.~~

~~(1) All residential uses are permitted within the PUD including single family detached, duplex, triplex, fourplex, townhouses, patiohouses, apartments, high rise apartments, zero lot line dwellings, or a CCRC.~~

~~(2) Commercial uses are permitted as approved by the Planning Commission for PUD developments if the development contains 500 or more dwelling units, then 1 acre of land for every 100 dwelling units may be used for commercial purposes and must be shown on the Phase I and Phase II plans.~~

~~(3) Limited industrial and office/research uses are permitted as approved by the Planning Commission for developments of 1,000 or more dwelling units at a rate of 5 acres of land for every 100 dwelling units and must be shown on the Phase I and Phase II plans.~~

~~(4) Green area will be provided at the following minimum rates (not to be confused with recreational area):~~

<i>Gross Density</i>	<i>Green Area (Minimum Percent of Gross Area)</i>
1-5 hu/acre	30
6-10 hu/acre	35
11-18 hu/acre	40

~~(5) Uses which are customary, accessory or associated with permitted uses including private garages, storage spaces, tool sheds or other similar accessory uses are permitted. A CCRC PUD or a CCRC as a portion of a PUD may include related incidental accessory uses for the benefit or convenience of the residents and their guests including but not limited to: kitchen and dining facilities, restaurants, places of worship, indoor and outdoor recreational uses, retail and banking facilities, beauty salon and barbershops, gift shops, classrooms, medical offices, medical clinic, laboratory services, exercise and vocational activity areas.~~

~~A complete listing and range of square footage for each individual accessory use must be shown on the Phase I Plan. The BOCC shall have the authority to deny or reduce the size, type, location, and/or mixture of the various accessory uses if determined that it is inappropriate for the site or overall area of the CCRC.~~

~~(6) In accordance with the criteria set forth below, quasi public uses, not receiving approval at Phase I, shall be permitted which are associated with the needs of the PUD as a whole. Such uses include recreational and community activities, public services and facilities, churches, day care centers, health care facilities, nursing homes, senior citizen centers, funeral homes, schools and any other quasi public use the Planning Commission determines is compatible with the development scheme, meets the needs of the PUD and will not adversely impact adjoining land uses within the PUD.~~

~~(a) Quasi public uses shall meet the following requirements.~~

~~1. The minimum lot size for quasi public uses shall be 1 acre; and~~

~~2. Minimum setbacks for quasi public uses shall be 40 feet front and 50 feet side and rear yards. However, the Planning Commission may approve a minimum of an 8 foot side yard requirement for quasi public uses constructed on a lot which adjoins another quasi public use, provided that there shall be a minimum separation between buildings equal to the height of the tallest structure.~~

~~3. The Planning Commission may approve modifications to the minimum lot size and setbacks for quasi public uses not receiving approval at Phase I where those modifications meet the overall purpose and intent of a CCRC PUD.~~

~~(b) For quasi public uses not receiving approval at Phase I, the Planning Commission shall not grant a quasi public use unless and until:~~

~~1. A written application to amend the Phase II plan for the PUD is submitted indicating the grounds on which the approval of the quasi public use is requested, along with a site plan for the use prepared in accordance with §§ 1 19 3.300 through 1 19 3.300.2 of this chapter; and~~

~~2. A public meeting has been held and the Planning Commission has made a finding that the use requested meets the requirements outlined in this section; and~~

~~3. Prior to the public meeting being held by the Planning Commission on the land use change for the Phase II plan, the property shall be posted for a minimum of 30 days.~~

~~(c) In evaluating a quasi public use request, the Planning Commission shall consider the relation of the proposed use to the existing and future development patterns in the PUD. A quasi public use may be granted if the Planning Commission finds that:~~

~~1. The proposed use meets the needs of the PUD and is in harmony with the purpose and intent of the approved PUD plans and this chapter; and~~

~~2. The nature and intensity of the operations involved in or conducted in connection with the use and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the PUD in which it is located; and~~

~~3. Operations in connection with the use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use not requiring approval; and~~

~~4. Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety; and~~

~~5. The road system providing access to the proposed use is adequate to serve the site for the intended use.~~

~~(d) The Planning Commission in addition to other requirements imposed under this chapter is hereby authorized to add to the specific requirements contained herein any additional conditions that it may deem necessary to protect adjacent properties and the integrity of the PUD.~~

~~(e) Upon approval of the quasi public use in a PUD the Phase II plan for the PUD shall be revised to reflect the change.~~

~~_____ (f) Any use or activity permitted as a quasi public use in a PUD may not be enlarged or extended beyond the limits authorized in the grant of approval. All enlargements, extensions and changes in use shall require additional grants of approval by the Planning Commission for the additional area, and shall be reviewed in the same manner as an original petition.~~

~~(G) The location, design and extent of public facilities to be provided are subject to the recommendation of the Planning Commission and approval by Board of County Commissioners. The following facilities will be provided in PUDs:~~

~~_____ (1) Schools. If the PUD contains 500 or more dwelling units then 1 acre of land for each 100 dwelling units will be provided for school sites. However, if it is determined by the Planning Commission that a school site is not needed, they may substitute some other public facility (such as fire or police station or library, etc.) in lieu of the school for this site.~~

~~_____ (2) Water and sewer. All PUDs shall be served by a community water and sewer system.~~

~~_____ (3) Transportation. The location and design of roads will be in accordance with the Comprehensive Development Plan, the county subdivision regulations and the Design Manual.~~

~~_____ (4) Recreation. Recreation areas shall be provided on the basis of a minimum of 1 acre per 60 dwelling units. (This is not in addition to that required for green space.)~~

~~_____ (5) Other public facilities. The Planning Commission may require developments containing 1,000 or more dwelling units to provide at least 1 acre for a fire station site and at least 10,000 square feet for provision of library services. In addition to the above, the Planning Commission may require sites for other public facilities if the need can be justified.~~

~~_____ (6) Ownership and maintenance of public facilities.~~

~~_____ (a) Streets will be owned and maintained by the county unless acceptance of the streets is contrary to county policy, then the owner or developer will make arrangements acceptable to the county for the ownership and maintenance of the street.~~

~~_____ (b) Green space and recreation areas may be owned and maintained by the county, or by a home owners association, condominium association or similar organization, subject to the approval of the Planning Commission and acceptance by the Board of County Commissioners.~~

~~(H) Review of the project will take place in 3 phases. At the culmination of each phase the applicant will receive all necessary approvals by the end of each phase before formally proceeding to the next review phase. Such phases are as follows:~~

~~_____ (1) Phase I The Justification Phase. The developer will collect sufficient information to provide the Board of County Commissioners with a basis to approve the overall concept of the project and rezone the property and set a maximum permitted land use density for the PUD, or to disapprove the concept of the project. No application for Phase I will be accepted unless the area of the proposed PUD is classified at least S-5, W-5 on the master plan for water and sewer.~~

~~_____ (a) The following submission will be made at the time of application.~~

~~_____ 1. A sketch plan at 1 inch equals 400 feet scale. The submitted plat shall show 20 foot contours, all existing natural and man-made features, existing zoning and vicinity map.~~

~~_____ 2. A schematic plan generally identifying location, densities and acreage of all proposed land uses.~~

~~_____ 3. A requested land use density and justification for the total project.~~

~~_____ 4. A statement covering the considerations listed under paragraph (b) following.~~

~~_____ (b) The Planning Commission and the Board of County Commissioners in their respective reviews of the proposed development will consider all of the following criteria to determine whether the project should be approved or disapproved:~~

~~_____ 1. The relationship of any development with the Comprehensive Plan, zoning regulations and other established development policy guidelines; and~~

~~_____ 2. The general location of the site and its relationship to existing land use in immediate vicinity; and~~

~~_____ 3. The long term implications the PUD would have on subsequent local development patterns and the demand for public facilities and services in the county and neighboring municipalities; and~~

~~_____ 4. The topography and relationship to existing natural and man-made features, both on site and in the immediate vicinity; and~~

~~_____ 5. The PUD's proposed construction schedule and how it relates to the provision of public services and facilities necessary to serve the PUD; and~~

~~_____ 6. The availability and suitability of vehicular access; and~~

~~_____ 7. The availability of water and sewer facilities including state approval for a point of discharge or water appropriation; and Board of County Commissioners approval that the project is within the service area of the water and sewer facilities proposed to serve it and that there is or will be sufficient capacity to serve the project. Where capacity is insufficient an applicant must contract with the owners of the water and sewer facilities to ensure sufficient water and sewer capacity to meet the density requested by the applicant. The Board of County Commissioners shall determine if such arrangement is adequate to protect the interests of the county.~~

~~_____ (c) The Planning Commission shall review the Phase I proposal at a public hearing advertised at least 15 days prior to such hearing. Adjacent property owners, those immediately abutting and confronting the PUD shall also be given notice of the proposed project and the hearing date. The Planning Commission shall then make a recommendation to the Board of County Commissioners as to approval or disapproval of the PUD application. A recommendation for approval will be accompanied by a recommendation for a land use density for the project.~~

~~_____ (d) The County Commissioners shall then determine the feasibility and desirability of the project concept at a public hearing. The Board of County Commissioners shall hold their own public hearing giving at least 15 days notice of such hearing in a newspaper of general circulation in the county. Adjacent property owners, those immediately abutting and confronting shall also be notified of the proposed project and the hearing date. The Board of County Commissioners shall at a public hearing approve or disapprove the PUD rezoning and if approved, set a maximum land use density. The maximum land use density approved by the County Commissioners can only be retained through excellence of design.~~

~~_____ (e) Phase II approval must be obtained within one year of Phase I approval or the PUD will be reviewed for possible rezoning.~~

~~_____ (2) *Phase II – The Plan Development Phase.* The applicant will develop and submit to the Planning Commission a detailed plan for the entire project in accordance with Phase I approval. The Planning Commission will not accept a PUD Phase II plan unless the PUD is classified at least W 4, S 4 on the master water and sewer plan.~~

~~_____ (a) The following submissions shall be made to the Commission's staff at least 60 days prior to the plan being considered by the Planning Commission.~~

~~_____ 1. Eight copies of a survey plat, showing the plan including:~~

~~_____ a. The land use plan identifying the type, location, quantity, design, and density of land use and dwellings for specific sections of the project and the project in total; and~~

~~_____ b. The street layout and design; and~~

~~_____ c. The green space plan and planned sites for schools, recreational areas, community centers, libraries, firehalls and other public improvements necessary to total community living in a project of that size and nature.~~

~~_____ 2. Eight copies of a plan of water and sewer facilities noting the location and nature of major improvements, and water and sewer franchise data including how and when such facilities are to be provided; and~~

~~_____ 3. Eight copies of a plan for phasing the construction of the PUD project, showing geographical coverage of future plats and their approximate sequence of submission; and~~

~~_____ (b) The Phase II plans will be scheduled for a Technical Advisory Committee meeting for review by agency representatives and representatives of the developer. It shall be the responsibility of the Planning Department to distribute the plans and information to other agencies, receive comments from those agencies and to notify the developer as to Technical Advisory Committee recommendations and the time, date and place of meetings and hearings regarding his development; and~~

~~_____ (c) In its review, the Planning Commission is empowered to request any changes or additional information that it may deem necessary. The Planning Commission may attach conditions concurrent with approval of the PUD. Approval of the development plan is conditional upon retention of the PUD plan as approved upon transfers of the property.~~

~~_____ (d) If preliminary plans of Phase III have not been submitted and approved within 3 years of approval of Phase II plans the Planning Commission shall review the PUD classification and may initiate a rezoning.~~

~~_____ (3) *Phase III – The Execution Phase.* This guides the project through the customary subdivision regulation process. Before applying for Phase III the PUD shall be classified at least W 4, S 4 on the master water and sewer plan.~~

~~_____ (a) Preliminary platting which complies with the county subdivision regulations is required in addition to submission of 5 copies of any covenants to be attached to the property and 5 copies of any homes association charter.~~

~~_____ (b) In reviewing the plat and supplemental items noted in Phase III above, the Commission may require any changes or additions deemed necessary and it may consult with any agencies or persons having jurisdiction or interest in such matters.~~

~~_____ (c) Final plats will be submitted as required by the county subdivision regulations, however, final plats except for single family detached dwellings will not be approved before exterior architectural and landscaping plans have been reviewed and approved by the Commission.~~

~~(Ord. 77 1 78, § 40 63(A), 1 24 1977; Ord. 80 24 176, 8 26 1980; Ord. 80 31 183, 10 7 1980; Ord. 89 2 533, 1 3 1989; Ord. 90 04 602, 2 6 1990; Ord. 91 27 027, 9 26 1991; Ord. 96 01 153, 1 16 1996; Ord. 97 06 184, 5 6 1997; Ord. 98 21 223, 10 6 1998; Ord. 00 21 263, 7 18 2000; Ord. 02 26 322, 11 21 2002; Ord. 07 11 451, 4 17 2007; Ord. 07 21 461, 6 12 2007; Ord. 08 26 502, 10 14 2008; Ord. 09 21 525, 6 4 2009; Ord. 09 22 526, 7 14 2009)~~

Cross reference:

Subdivisions, see Chapter 1-16

CHAPTER 1-20: ADEQUATE PUBLIC FACILITIES
ARTICLE 1. IN GENERAL
§ 1-20-5. DEFINITIONS.

(A) The following rules of construction shall apply to the text of the chapter.
[(1) through (11) remain unchanged]

(B) In this chapter, the following terms are used as defined unless otherwise apparent from the context.

MXD. The Mixed Use Development Floating Zone established in § 1-19-10.500 of the Frederick County Code **PRIOR TO [THE EFFECTIVE DATE OF THIS ORDINANCE]**.

PLANNED DEVELOPMENT EMPLOYMENT (PDE). A FLOATING ZONING DISTRICT APPROVED BY THE COUNTY COMMISSIONERS WHICH ALLOWS A VARIETY OF USES AND DWELLING UNIT TYPES IN ACCORDANCE WITH AN APPROVED PLAN AND SCHEDULE OF IMPROVEMENTS.

PLANNED DEVELOPMENT RESIDENTIAL (PDR). A FLOATING ZONING DISTRICT APPROVED BY THE COUNTY COMMISSIONERS WHICH ALLOWS A VARIETY OF USES AND DWELLING UNIT TYPES IN ACCORDANCE WITH AN APPROVED PLAN AND SCHEDULE OF IMPROVEMENTS.

PLANNED UNIT DEVELOPMENT (PUD). A floating zoning district approved by the County Commissioners which allows a variety of uses and dwelling unit types in accordance with an approved plan and schedule of improvements **AS ESTABLISHED IN 1-19-10.700 OF THE FREDERICK COUNTY CODE PRIOR TO [THE EFFECTIVE DATE OF THIS ORDINANCE]**.

§ 1-20-7. EXEMPTIONS.

[(A) through (C) remain unchanged]

(D) Any existing PUD with preliminary plat (Phase III) approval prior to the effective date of this chapter shall be exempt from the requirements of this chapter for the following time periods as long as the preliminary plat (Phase III) approval remains valid:

6-100 units 3 years from December 1, 1991

101-500 units 5 years from December 1, 1991

501 + units 10 years from December 1, 1991

(E) Developments that meet the requirements of this chapter at the time of preliminary subdivision approval do not have to comply with the provisions of this chapter at the time of site plan approval.

(F) Any project which qualifies as “housing for older persons” defined in § ~~1-20-5~~ hereof, and which meets the following criteria shall be exempt from the schools test under this chapter.

(1) If the proposed project is a PUD, **PDR, PUD**, or MXD that is not an adaptive reuse project, all or a portion of the project must have been designated as an Age-Restricted Community at Phase I in accordance with § **1-19-10.500.9** ~~1-19-10.700.2(E)(7), 1-19-10.500(I) or 1-19-10.500(E)(1)(k)~~ of the Zoning Ordinance.

[(2) through (10) remain unchanged]

§ 1-20-9. APPROVAL OF PLANNED DEVELOPMENTS.

(A) ALL PLANNED DEVELOPMENT PHASE II PLANS OR AMENDED PHASE II PLANS RESULTING IN AN INCREASE IN DENSITY OR INTENSITY OF USE SHALL MEET THE REQUIREMENTS OF THIS CHAPTER PRIOR TO APPROVAL. A PHASING PLAN INDICATING THE DENSITY AND RATE OF DEVELOPMENT IN ACCORDANCE WITH THE AVAILABILITY OF ADEQUATE PUBLIC FACILITIES SHALL ALSO BE APPROVED AS PART OF THE PHASE II PLAN APPROVAL.

(B) PLANNED DEVELOPMENT PHASE II PLANS THAT DO NOT MEET THE REQUIREMENTS FOR ADEQUATE PUBLIC FACILITIES IN ARTICLES III-VI HEREIN, SHALL NOT BE APPROVED EXCEPT AS A CONDITIONAL APPROVAL AS ALLOWED FOR IN § 1-20-11 (A) OR (B). FINAL PLAT APPROVAL MAY BE GRANTED AND LOTS RECORDED AS THE CONDITIONS SET FORTH IN THE CONDITIONAL APPROVAL ARE MET.

(C) AN ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING SHALL BE FORWARDED BY THE PLANNING COMMISSION TO THE DEVELOPER. PRIOR TO FINAL SIGNATURE AND APPROVAL OF THE PLANNED DEVELOPMENT PHASE II PLAN, THE ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING SHALL BE APPROVED AND SIGNED BY BOTH THE DEVELOPER AND PLANNING COMMISSION.

(D) APPROVAL OF ADEQUATE PUBLIC FACILITIES FOR PLANNED DEVELOPMENTS SHALL BE VALID FOR THE LENGTH OF TIME OF THE ORIGINAL PHASE II PLAN APPROVAL. THE PLANNED DEVELOPMENT PHASE II APFO VALIDITY TIME PERIOD SHALL BE THE GREATER TIME OF THE VALIDITY PERIODS DETERMINED PER SECTION 1-20-8(D)(1) AND SECTION 1-20-8(D)(2).

(E) IF THE PLANNED DEVELOPMENT PHASE II APPROVAL EXPIRES, IS VOIDED, OR IF THE PLANNED DEVELOPMENT PHASE II PLAN IS AMENDED SUCH THAT THE DENSITY OR INTENSITY OF USE IS INCREASED, THEN THE UNRECORDED OR UNDEVELOPED PORTION OF THE DEVELOPMENT SHALL MEET THE REQUIREMENTS OF THIS CHAPTER PRIOR TO AGAIN OBTAINING PHASE II APPROVAL.

(F) ALL PLANNED DEVELOPMENTS SEEKING PHASE II APPROVAL MUST COMPLY WITH ALL APPLICABLE REGULATIONS, INCLUDING THE COUNTY SUBDIVISION REGULATIONS AND ZONING ORDINANCE.

(G) PRIOR TO RECORDATION OF FINAL PLATS FOR A PLANNED DEVELOPMENT, ALL APPLICABLE STATE AND LOCAL REQUIREMENTS MUST BE MET INCLUDING BUT NOT LIMITED TO THE HEALTH DEPARTMENT, DIVISION OF UTILITIES AND SOLID WASTE MANAGEMENT, DIVISION OF PERMITTING AND DEVELOPMENT REVIEW, AND DIVISION OF PUBLIC WORKS REQUIREMENTS.

§ 1-20-910. APPROVAL OF MIXED USE DEVELOPMENTS (MXDS) AND PLANNED UNIT DEVELOPMENTS (PUDS).

(A) All MXD plans, PUD Phase II plans, or amended Phase II plans resulting in an increase in density or intensity of use, shall meet the requirements of this chapter prior to MXD plan or PUD Phase II plan approval or reapproval. A phasing plan indicating the density and rate of development in accordance with the availability of adequate public facilities shall also be approved as part of the MXD plan or PUD Phase II approval or reapproval.

(B) All PUDs with existing Phase II approval as of December 1, 1991, shall meet the requirements of this chapter prior to preliminary plat (Phase III) or site plan approval or reapproval. A phasing plan indicating the density and rate of development in accordance with the availability of adequate public facilities shall also be approved as part of the preliminary plat or site plan approval.

(C) MXD or PUD Phase II preliminary plans or site plans that do not meet the requirements for adequate public facilities in Articles III-VI herein, shall not be approved except as a conditional approval as allowed for in § 1-20-10 (A) or (B). Final plat approval may be granted and lots recorded as the conditions set forth in the conditional approval are met.

(D) Prior to the signing of the Phase II, or preliminary plat, an adequate public facilities letter of understanding shall be forwarded by the Planning Commission to the developer.

(E) Approval of adequate public facilities for PUDs shall be valid for the length of time of the original Phase II plan approval. The preliminary plan (Phase III) APFO approval shall be based on the number of units approved on the Phase II plan. MXD approval time shall be based upon the number of units and size (acreage) of the preliminary plan.

(F) If the Phase II or preliminary plat (Phase III) approval expires, is voided or is amended such that the density or intensity of use is increased, then the unrecorded or undeveloped portion of the development shall meet the requirements of this chapter prior to again obtaining Phase II or preliminary plat (Phase III) approval.

(G) All MXD or PUD developments seeking Phase II, preliminary subdivision (Phase III) or site plan approval must comply with the county subdivision regulations and zoning ordinance.

(H) Prior to recordation of final plats all Health Department and Department of Public Works requirements must be met.

§ 1-20-~~10~~**11**. CONDITIONAL APPROVAL.

(A) Conditional site plan, or preliminary plat, approval may be granted to a development that does not have adequate public facilities at the time of Planning Commission consideration, provided that the developer agrees to provide the necessary improvements to make the facility adequate as allowed for in § 1-20-11. If the developer improvements will not result in adequate capacity, conditional approval shall not be granted, and preliminary plat and site plan approval shall be denied.

(B) If any conditions of a Phase II or preliminary plat approval have not been met, then approval shall not be granted to a final subdivision plat.

(C) If conditional site plan approval has been granted, a building permit shall not be issued until the conditions have been satisfied, or the facilities have been determined to be adequate.

§ 1-20-~~11~~**12**. DEVELOPER OPTION.

The developer shall have the option to provide the public facility improvements necessary to support the proposed development and to ensure adequacy of public facilities set forth in this chapter or wait for public facilities to become adequate by improvements made pursuant to the CIP or other sources. A county, state or municipal agency may participate in the improvements.

§ 1-20-~~12~~**13**. ESCROW FUNDS FOR ROAD IMPROVEMENTS.

(A) In lieu of either providing the public facility improvements or waiting for public facilities to become adequate as provided in § 1-20-11, the developer of a limited impact development (as defined below) shall have the option of contributing money to an escrow account as set forth in this section, provided the Planning Commission determines that the developer has fulfilled each of the requirements of this section.

(B) The amount of money the developer shall be required to place in the escrow account shall be the proportionate share of costs of making the improvements required to satisfy the roads adequacy requirements in § 1-20-31. This proportionate share shall be based on an equitable allocation or portion of traffic trips in the peak hour, and in the critical direction or movement, that the proposed development is estimated to cause, when measured against the additional capacity that the proposed improvement is creating. In arriving at the equitable allocation or portion, the Planning Commission shall consider the traffic impact of the development as it relates to the entire road improvement being proposed. The Planning Commission shall determine the equitable allocation based on the procedures outlined in the guidelines. The proposed road improvement may upon the request of the applicant be designed to create more new capacity than that which is required for the development to satisfy the adequacy requirements in § 1-20-31, if the Planning Commission determines that the road link or intersection to be improved will require greater improvement to handle additional future development consistent with the County Comprehensive Plan. Once a road improvement is approved for a particular road link or intersection and an escrow account is established, subsequent applicants shall either contribute to the escrow fund an equitable allocation of the approved road improvement, until such time that the account is closed by the county, or build the approved road improvement.

(C) The Planning Commission shall approve the escrow request if the Planning Commission determines that it would not be equitable to impose the entire cost of the required improvements on the developer because of the limited impact that the proposed development would have on the roads in question and if the Planning Commission finds that the development would not have a substantial adverse impact on traffic. A limited impact development is a development that is projected to lower the level of service of a roadway element by no more than 10% of one level of service. Additionally, the Planning Commission may approve a special fee-in-lieu payment escrow request, as determined by the state or county, which shall not be subject to proportionate share requirements, if the constructed improvements necessary to establish adequacy are practically infeasible due to circumstances beyond the control of the applicant but which may be feasible if constructed as a public project or by others. No escrow request shall be approved for a road improvement that the Planning Commission determines is infeasible or unreasonable to construct. In determining whether a development has a limited impact, the Planning Commission shall consider the general requirement in § 1-20-6(B) that the developer not avoid the intent of this chapter by submitting piecemeal applications and may deny an escrow request for a piecemeal application.

(D) Once an escrow is established, any non- exempt developer generating more than 5 trips during the peak hour of the adjacent street, as defined in § 1-20-5, having an impact on the improvement project shall be required to pay its proportionate share into the escrow account or, if applicable, make the road improvements as provided in § 1-20-11 to gain adequate public facilities approval to allow development to proceed.

(E) The escrow account shall be maintained by the county in an interest bearing account and shall be used solely for road improvements benefitting the property as determined by the Board of County Commissioners. While in most cases the escrow payments will be explicitly allocated to specific improvements at certain locations, escrow funds may be reallocated for any transportation improvements within the same link or intersection, as outlined in the guidelines, so long as the transportation improvements provide an identifiable benefit to the roadway links or intersections affected by the development. If, after 10 years from the date of the first escrow account contribution, the Board of County Commissioners determines that there is no reasonable probability of implementing the transportation improvements described above in the next 6 years, the escrow account may be closed. The funds in the account may be transferred to another escrow account within the same planning region, at the discretion of the Planning Commission, for the purpose of constructing other unbuilt escrow account projects. If the money paid into an escrow account for road improvements exceeds actual costs, the applicant may seek a refund. Any application for refund must be filed with the Director of Finance within 1 year of the time at which the funds become available for refund.

(F) If the Planning Commission approves an escrow fund for road improvements under this section and the development meets all other requirements, then the Planning Commission shall grant to the development conditional site plan, preliminary plat or Phase II plan approval.

(G) If a developer constructs road improvements for which an escrow account has been established pursuant to this section, the funds in the escrow account shall be made available to the developer to defray the construction costs of the improvements minus that developer's proportionate share of the improvement.

(H) A county, state or municipal government agency may participate in the construction of or reimbursement for road improvements for which an escrow account has been established.

ARTICLE II: ADMINISTRATION

§ 1-20-20. ADMINISTRATIVE AGENCY DESIGNATED.

The Adequate Public Facilities Ordinance shall be administered by the Division of Permitting and Development Review (DPDR). All applications, maps, and documents relative to subdivision, PUD, **MXD, PDR, OR PDE** Phase II or site plan approval and subject to the provisions of this chapter shall be submitted to DPDR which will review all information and present the relevant information and its recommendations to the Planning Commission. Final determination of adequacy shall be the responsibility of the Planning Commission.

ARTICLE IV: PUBLIC WATER SUPPLY
§ 1-20-41. DETERMINATION OF ADEQUACY.

[(A) through (B) remain unchanged]

(C) If a public or private water system is found to be inadequate, site plan, PUD, **MXD, PDR, OR PDE** Phase II or preliminary subdivision approval shall be denied except as provided for in § 1-20-10.

[(D) through (E) remain unchanged]

ARTICLE V: SEWERAGE FACILITIES
§ 1-20-51. DETERMINATION OF ADEQUACY.

[(A) through (B) remain unchanged]

(C) If a sewerage system is found to be inadequate, site plan, PUD, **MXD, PDR OR PDE** Phase II or preliminary subdivision approval shall be denied except as provided for in § 1-20-10.

[(D) through (E) remain unchanged]

ARTICLE VI: SCHOOLS
§ 1-20-61. DETERMINATION OF ADEQUACY.

[(A) through (E) remain unchanged]

(F) Denial. If a school is not adequate and the BOE has not approved a specific redistricting plan that would result in the school meeting the standards established in § 1-20-61(C), then the preliminary subdivision, PUD, **MXD, PDR OR PDE** Phase II or site plan approval shall be denied, except as allowed for in § 1-20-10.

[(G) through (J) remain unchanged]

CHAPTER 1-21: FOREST RESOURCES
ARTICLE 1. IN GENERAL
§ 1-21-5. DEFINITIONS

PLANNED DEVELOPEMNT EMPLOYMENT (PDE). A FLOATING ZONING DISTRICT APPROVED BY THE COUNTY COMMISSIONERS WHICH ALLOWS A VARIETY OF USES AND DWELLING UNIT TYPES IN ACCORDANCE WITH AN APPROVED PLAN AND SCHEDULE OF IMPROVEMENTS.

PLANNED DEVELOPMENT RESIDENTIAL (PDR). A FLOATING ZONING DISTRICT APPROVED BY THE COUNTY COMMISSIONERS WHICH ALLOWS A VARIETY OF USES AND DWELLING UNIT TYPES IN ACCORDANCE WITH AN APPROVED PLAN AND SCHEDULE OF IMPROVEMENTS.

TRACT. Property subject to an application for a grading or sediment and erosion control permit or a site plan or subdivision approval. Within a Planned Unit Development, ~~or~~ Mixed Use Development, **PLANNED DEVELOPMENT RESIDENTIAL PROJECT, OR PLANNED DEVELOPMENT EMPLOYMENT PROJECT**, *TRACT* means the entire land area subject to a planned unit development, which may be divided into smaller, staged projects with a defined point of completion for each stage.

ARTICLE III: PLAN REQUIREMENTS
§ 1-21-30. PLANS IN GENERAL.

[A) through (D) remain unchanged]

(E) *Requirements of plan preparers.*

[(1) remains unchanged]

(2) Maryland licensed surveyors or other individuals, who by a combination of relevant work experience and education meet the general level of expertise as expressed in COMAR 08.19.06.01, as determined by the Department, may prepare required forest plans for:

(a) All minor subdivisions; and

(b) Site plan projects and major subdivisions that:

1. Are not in areas zoned PUD, ~~or~~ MXD, **PDR OR PDE**;

[2. and 3. remain unchanged]

[(3) remains unchanged]

[(F) remains unchanged]

§ 1-21-31. FOREST STAND DELINEATION.

(A) *Timing of submissions.*

(1) A forest stand delineation (“FSD”) shall be used during the initial review process to determine the most suitable and beneficial areas for forest conservation. Except as provided in subsection (A)(2) of this section, an FSD shall be submitted simultaneously with the first submission of a development project, whether it be a MXD, **PDR, OR PDE** Phase I Plan, a PUD Phase II Plan, a cluster concept plan, a co-housing plan, preliminary subdivision plan, a site plan, or a grading permit application, but before a sediment and erosion control application is submitted for the tract or development project in question.

[(2) remains unchanged]

[(B) through (D) remain unchanged]

§ 1-21-33. PRELIMINARY FOREST CONSERVATION PLAN.

(A) *Timing of submissions.* A preliminary forest conservation plan (“PFCP”) shall be submitted along with the forest stand delineation with the first of the following submitted for the site:

(1) A Phase II ~~Concept Plan~~ for a PUD, ~~or~~ **MXD, PDR OR PDE**;

[(2) through (5) remain unchanged]

[(B) remains unchanged]

(C) *Review period.* The PFCP shall be reviewed concurrently by the Department with the review of a Phase II Concept Plan for a PUD, ~~or~~ **MXD, PDR, OR PDE**; a residential cluster or co-housing plan; preliminary subdivision plan or site plan; or grading or sediment and erosion control permit, whichever is applicable.

ARTICLE IV: DESIGN CRITERIA

§ 1-21-42. REFORESTATION AND CONSERVATION THRESHOLD.

[(A) through (B) remain unchanged]

(C) *Definitions restated for the Standard Method.* **REFORESTATION** under this section means the planting of trees to replace forest that has been recently or is proposed to be removed by development. **CONSERVATION THRESHOLD** means the percentage of the net tract area at which the reforestation requirement changes from a ratio of one-quarter acre planted for every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed according to the land use categories as listed below:

<i>Category of Use</i>	<i>Threshold Percentage</i>
(1) Agricultural and Resource Conservation Zones, except for cluster developments therein which shall utilize R-1 values	50
(2) R-1 Residential zoned areas	25
(3) Institutional use areas in any zone	20
(4) R-3, R-5, R-8, R-12, R-16 and Mobile Home Park zoned areas	20
(5) Mixed Use and Planned Unit Development, PLANNED DEVELOPMENT RESIDENTIAL AND PLANNED DEVELOPMENT EMPLOYMENT zoned areas	15
(6) Commercial and Industrial Use zoned areas	15

[(D) through (E) remain unchanged]