

## CHAPTER 400. PERMIT TYPES AND APPLICATIONS

### SECTION 402. USE PERMITS

#### 402.2. Zoning Amendment - MPUD Master Planned Unit Development

##### A. Initiation

An MPUD Master Planned Unit Development zoning may be initiated by the owner(s) of the subject property, the authorized agent for the owner(s), or the Board of County Commissioners (BCC).

##### B. MPUD Required

An MPUD zoning shall be required in the following instances:

1. Projects that are in the coastal high hazard area.
2. Projects greater than twenty (20) residential units or greater than 100 acres located in the AG/R (Agricultural/Rural) Land Use Classification.
3. Projects where the net upland acreage and proposed zoning density/intensity/lot sizes would allow the project to exceed the capacity of 1,200 daily trips. Provided; however, that projects with commercial land uses must have greater than ten (10) net upland acres and exceed 1,200 daily trips before an MPUD is required. Additionally, regardless of the size or trips, office and industrial development shall not require an MPUD.
4. Other projects as determined by the BCC or as required by the County Comprehensive Plan.

##### C. Submittal Requirements

An applicant shall submit required information in the form as specified by the County Administrator or designee. In addition to the requirements identified for all projects in the Development Manual, applications for an MPUD zoning shall include the following information:

1. Applicant Information
  - a. Proof of ownership; i.e., copy of deed.
  - b. Agent of Record letter, if applicable.
  - c. Application fee.

2. Project Description

A preliminary project description in sufficient detail to determine the general intent with respect to the following, if known:

- a. The general purpose and character of the proposed development.
- b. Land use by acreage, densities, and intensities.
- c. Structural concepts, including height and anticipated building type.
- d. Recreation and open space.
- e. Facilities commitments.
- f. A statement describing the intent for the management of common areas and facilities.
- g. Any requests for special approval to vary from the standards of this Code, Section 407.

3. Map Information

- a. A location map showing the relationship between the areas proposed for development and surrounding properties, including a current aerial photograph, which in no case shall be older than that available at the Property Appraiser's Office with boundaries of development and roadway layout delineated.
- b. All major County roads within one (1) mile of the proposed development.
- c. Wellhead Protection Areas and Special Protection Areas for all Community Water System supply wells within the proposed development and within 1,000 feet of the proposed development.
- d. The location of all existing and proposed roadways, rights-of-way, and easements adjacent to or within the property.

4. Physical Resources Information

- a. Topographic information providing 100-year floodplain and wetland delineations. The most recent U.S. Geological Survey, Topographical Survey, and U.S. Geological Survey Flood Prone or Federal Emergency Management Agency mapping may be used for topography on flood-prone delineations. County wetlands maps or aerial photography interpretation may be used for wetlands delineation.

- b. A soils survey, which may be based on the most recent County soils survey, drawn to the same scale as the master plan, and clearly identifying all soil types, especially those areas which are apparently not suitable for buildings or major structures due to soil limitations.
  - c. An Environmental/Wildlife Habitat Study evaluating plant and animal species listed as endangered, threatened, or species of special concern as designated by the State and Federal authorities, including the following description of the parcel: documentation of data collected and reviewed, such as the Florida Land Use and Cover Classification System, U.S. Fish and Wildlife, and Florida Fish and Wildlife Conservation Commission, and field survey map that characterizes and describes the natural resources of the site, including the location of protected species confirmed on the site and habitat suitable for listed species.
  - d. A Phase I cultural resource assessment, including the following: project scope, archival research, and identification of sites adjacent to the subject property; identification of research design; and description of field methodology, field work, and analysis of the findings and conclusions.
  - e. A table showing estimated predevelopment and postdevelopment acres of wetlands by category, according to the Comprehensive Plan, and a conceptual plan for the protection and use of on-site wetlands.
5. Master Plan
- a. The master plan shall have the following base information:
    - (1) Topography.
    - (2) Floodplains and elevations.
    - (3) Wetlands (Categories I, II, and III).
    - (4) Critical linkages as defined in the Comprehensive Plan.
  - b. The master plan shall graphically depict the proposed use of the site, including:
    - (1) Proposed land uses, including the proposed number of units, lots, nonresidential square feet, density, and intensity as applicable.
    - (2) A conceptual lot layout.

- (3) Open space.
  - (4) Proposed preservation or conservation areas.
  - (5) The proposed location of major streets and thoroughfares.
  - (6) A generalized mobility plan, including bicycle, pedestrian and transit facilities.
  - (7) Recreation areas for residential projects, including neighborhood parks.
  - (8) Buffers and setbacks meeting the requirements of this Code and as necessary to ensure compatibility with the surrounding area.
  - (9) Major facilities, including a delineation of proposed school sites and fire station sites, if necessary, for the service of the area as developed.
- c. The master plan shall identify:
- (1) The existing zoning.
  - (2) The existing land use.
  - (3) The Future Land Use Classification on the site and the surrounding areas within 500 feet of the site.
- d. The master plan shall include a phasing plan that describes the proposed timing for, location of, and sequence of phasing or incremental development and the proposed density for each such phase or increment of development. The applicant may provide approved Development of Regional Impact (DRI) information, which satisfies this requirement.
- e. A table showing the acreage for each category of land use, including Category I, II, and III wetlands, critical linkages, open space, and recreation.
- f. A table of proposed minimum and/or maximum gross and net residential acreages for residential land uses and proposed minimum and/or maximum floor area ratio for nonresidential land uses, as applicable.

6. Utilities and Services Plan

- a. Identify the location/source of sanitary sewers, potable water facilities, and the approximate location of existing facilities on the master plan, as required by this Code, Section 903.
- b. The general direction of natural surface drainage of the proposed MPUD, including a general statement regarding the disposal of stormwater drainage, including identification of whether a site falls within a basin of special concern and/or lies within the areas depicted on Maps 2-4, Flood Prone Areas, of the Comprehensive Plan.
- c. An analysis of the impact of the proposed MPUD on schools and other public facilities as provided in this Code, Section 1301.

7. Transportation Management

A roadway plan for the MPUD shall be shown on the submitted master plan, including subdivision access locations; internal, subdivision collector roadways; and roadways required by Section 901.1, Corridor Spacing.

8. Specific Approvals

Variations from this Code may be reviewed and approved by the BCC and DRC during the public hearing held on any application for an MPUD zoning amendment. Variations shall be allowed where the BCC specifically finds, in the particular case, that the proposed variation meets or exceeds the intent of this Code. The applicant shall be required to submit sufficient information to justify such variation for staff to make a recommendation.

D. Public Hearings Required

Prior to the enactment of any change in zoning to an MPUD, the Development Review Committee (DRC) and BCC shall each hold a separate public hearing on the proposed amendment.

E. Notice

Notice of the public hearings shall be provided in accordance with Section 306 and the provisions of Chapter 125.66, Florida Statutes.

F. Standards of Review

In addition to the review considerations listed in Section 402.1.D, the following shall be considered by the County Administrator or designee and the DRC in making their recommendations on the application for an MPUD zoning:

1. The impact of the proposed development upon public improvements, surrounding land uses in the neighborhood and subregion, and significant environmental features in the surrounding neighborhood and subregion.
2. The adequacy of the existing public services and facilities serving the proposed development, including transportation systems, utilities, and fire and police protection.
3. The potential need for expansion of public services and facilities to accommodate the proposed development, including the consideration of the results of the Timing and Phasing Analysis performed pursuant to Section 901.12, Transportation Analysis.

G. Staff Review

1. The County Administrator or designee, after consideration of the above-referenced Standards of Review, shall present a recommendation to both the DRC and the BCC.
2. The County Administrator or designee may recommend such conditions as appropriate to ensure compliance with this Code and the Comprehensive Plan. Such conditions may relate to, but are not limited to:
  - a. The establishment of limitations or ranges of densities or intensities upon the proposed MPUD or increment thereof.
  - b. The establishment of timing and/or phasing conditions relating to the amount of density or intensity that may be permitted on-site in relation to availability and capacity of the transportation network.
  - c. Establishment of mitigation requirements to address issues identified in the timing and phasing analysis performed pursuant to Section 901.12.
  - d. Traffic patterns and road improvements serving the site, whose conditions shall attempt to alleviate direct, adverse impact on existing road systems and maximize safety.

- e. The protection of natural features, water resources, wetlands, and other ecological systems on the site, which conditions may include:
- (1) Controls on the siting and location of buildings for improvements to ensure protection of subsurface and surface water resources to ensure protection of conservation and preservation areas as designated on the plan; to ensure compatibility through the protection of natural features and existing topography; and to ensure the protection of scenic and environmentally significant natural resources, such as tree stands, rivers, streams, ponds, and lakes.
  - (2) Controls which ensure the protection of natural drainage systems through limitation of disturbances of land for drainage improvements through the utilization of on-site stormwater retention and through use of innovative drainage designs or concepts.
  - (3) Controls which ensure the adequacy of public services, including water and sewer service available to the site.
  - (4) The minimization of potential, increased flood problems of developed areas within the site and surrounding areas.
  - (5) The maintenance of major public improvements pending the development of the entire MPUD site.
  - (6) The compatibility of proposed uses with established and planned uses of the surrounding neighborhood and subregion, including adequate buffering.
  - (7) The internal compatibility of proposed uses whose conditions may include restrictions on location of improvements, restrictions on design, and buffering requirements.
  - (8) The adequacy of useful open space to serve the proposed MPUD site and phases or increments thereof.
  - (9) Controls which ensure protection of cultural resources.
  - (10) The timing or sequence of phasing for purposes of ensuring the adequacy of available improvements and facilities, both public and private.

H. DRC Hearing

1. At the completion of the public hearing on an application for an MPUD zoning amendment, and upon consideration of the staff recommendation and the standards referenced above, the DRC may:
  - a. Continue the application for further consideration;
  - b. Recommend approval of the application as presented;
  - c. Recommend approval of the application with modifications; or
  - d. Recommend denial of the application.
2. The recommendation of the DRC shall be submitted to the BCC in written form.
3. The recommendations of the County Administrator or designee and DRC are advisory only and shall not be binding on the BCC.

I. BCC Hearing

1. Upon receipt of the DRC recommendations, the BCC shall hold a separate public hearing on the MPUD zoning amendment.
2. At the conclusion of the public hearing and after the consideration of the recommendation of the DRC, the staff recommendation, and the standards above, the BCC may:
  - a. Refer the application back to the DRC for further study if further information is required in order to make a final decision;
  - b. Deny the application;
  - c. Approve the application as presented; or
  - d. Approve the application with modified, deleted, or added conditions to ensure compliance with the Comprehensive Plan, this Code, or for the benefit of public interest.
3. In addition to the standards of this Code, conditions imposed upon an approved MPUD plan shall constitute the standards and guidelines against the development of the MPUD site, or any increment or phase thereof, shall be reviewed. Conditions shall specify provisions, standards, conditions, or design specifications which must be met in order to ensure compliance with the standards set forth in this Code and the Comprehensive Plan.

If the recommendation of the DRC is to deny the proposed MPUD zoning amendment, such amendment shall not become effective except by an affirmative vote of the majority of the entire membership of the BCC.

J. Effect of Final Decision

1. If Denied

Whenever the BCC has denied an application for rezoning of the property, the DRC shall not thereafter:

Consider any further application for the same rezoning of any part of the same property for a period of twelve (12) months from the date of such action.

2. If Approved

Written conditions of approval and a master development plan reciting all specific conditions to be imposed upon the development, in addition to the requirements of this Code, shall be issued. After the rendering of such a written approval:

- a. The zoning classification accorded to the property subject to the application shall be changed on the County zoning maps/layer to reflect an MPUD classification.
- b. Development of the MPUD site shall substantially conform to the densities or intensities, or ranges of densities or intensities, approved by the BCC for the entire site and for each phase or increment of the MPUD plan.
- c. All conditions imposed and all graphic material, excluding the yield analysis, presented depicting restrictions on development shall become part of the regulations which govern the manner in which the MPUD site may be developed and shall be binding upon the applicant or any successors in interest. Deviations from approved master plans or failure to comply with any requirement, condition, or safeguard shall constitute a violation of these zoning regulations. If there is a conflict between the conditions of approval and the master plan, the conditions of approval shall govern.
- d. The developer shall provide to the County proposals describing agreements, covenants, contracts, or deed restrictions which shall be enacted to ensure the completion of the development without any expense to the general public which was not agreed to at the time of the approval. Additionally, the said agreements, covenants, contracts, or deed restrictions shall bind all successive owners and developers of all or any portion of the MPUD project to any commitments made and any restrictions placed on the

approved MPUD plan or any document, graphic, map, or other such information provided which is part of the official record.

- e. All plans or plats for development of land approved subject to a master plan shall be processed in accordance with procedures established in this Code. The site plan or plat shall be required to be submitted in substantial compliance with the approved master plan.
- f. The written approval and the conditions recited in the said approval shall constitute a development order which authorizes the activity described in Paragraph K, below.

K. Authority Granted by Approval

- 1. The approval of an MPUD application shall authorize the applicant to proceed with the development process as prescribed in this Code.
- 2. Prior to development within any phase, the applicant or his successor in interest shall present for review and approval, detailed development plans for each phase in accordance with this Code, providing that:
  - a. A preliminary development plan (PDP)/residential, PDP/non-residential/mixed use, or preliminary site plan (PSP) as outlined in this Code must be approved for an entire increment (bubble) prior to any phased construction drawing approval, unless otherwise provided for in the MPUD conditions of approval.
  - b. The maximum number of units and the density and intensity of each increment shall not exceed those limits of the approved MPUD plan.

L. Requirements for Future Development

- 1. Any PSP or PDP for any phase of, increment of, or for the entire MPUD site shall be consistent with and conform to the conditions of approval set forth in the MPUD plan approval in addition to all other requirements imposed by relevant County ordinances and regulations governing the development of land and construction of buildings and structures.
- 2. Each PSP or PDP submittal shall include the existing cumulative number of dwelling units and cumulative square footage of nonresidential development permitted within the MPUD.
- 3. Each PSP or PDP submittal shall include an enclosed boundary survey of the total site, enclosed boundary survey of the phase to be developed within the total site, and of all lands to be held as open space or community facilities.

4. All off-site improvements and facilities required by conditions of approval of the MPUD necessary to adequately service the development or increment thereof must be completed or will be completed in conjunction with such development.
5. If the proposed MPUD constitutes a DRI, the MPUD shall be subject to such revisions and modifications as are necessary to address and implement recommendations of the Tampa Bay Regional Planning Council and State Land Planning Agency after appropriate review in accordance with Section 380.06, Florida Statutes.

M. Time Limit on Approval

Except where project development schedules are established for DRIs and Florida Quality Developments, the following time limits on approvals shall apply:

1. If the PSP and PDP for the entire MPUD are not approved within six (6) years of the original approval or from the last substantial modification, then the conditions of approval shall expire for those portions of the MPUD that do not have (unexpired) PSP or PDP approval, unless the BCC approves a longer duration at the time of the original MPUD approval or a substantial modification thereof. Extensions authorized by the State of Florida shall not require BCC approval or a substantial modification to the MPUD.
2. If the conditions of approval for the MPUD expire, a new rezoning for the expired portion of the MPUD shall be submitted, reviewed, and approved in accordance with the Comprehensive Plan and Code in effect at that time. No new PSP or PDP shall be submitted until the new MPUD is approved.

N. Modifications

1. Substantial Modifications

A substantial modification request shall be processed as an MPUD zoning amendment in accordance with this Code, Sections 402.2.C-M. The following shall be presumed to be substantial modifications to the approved master plan:

- a. Any change in a site related condition that was imposed by the BCC at the public hearing.
- b. Any alteration of a use, material increase in density or intensity within 100 feet of the district boundary, within the project where a residence is constructed, or residential land is owned by a person other than the applicant.
- c. Any material decrease in an approved target business use, corporate business park use, or industrial use.

- d. A change from a single-family residential to a multiple family in the Central, North, and East Market Areas.
- e. A change from a residential use to a commercial use.
- f. A cumulative increase of greater than five (5) percent in residential dwelling units or the size of areas proposed for nonresidential uses.
- g. An increase in structure height of ten (10) feet or more in the East, North, or Central Market Areas or within 100 feet of an existing residential dwelling if within the South or West Market Areas.
- h. A reduction in open space or recreational areas or a change of the same within 100 feet of the boundary of the project, within the project where a residence is constructed, or residential land is owned by a person other than the applicant.
- i. Any change made following plat approval to boundaries of open space or recreational areas.
- j. Any changes of a use not previously approved.
- k. Any change that would create additional trip generation of ten (10) percent or more.
- l. Notwithstanding a-k above, a change of any aspect, attribute, or feature of the development which might adversely impact the site or surrounding area in a manner which would be inconsistent with this Code or the Comprehensive Plan, may be considered substantial or require a hearing before the DRC.
- m. In no case shall the intensity or density be increased over the maximum permitted by the adopted Comprehensive Plan.
- n. The measurement of distances shall include only abutting properties and shall not include any property across an external street.
- o. Extensions to MPUD approval other than extensions authorized by the State of Florida.

## 2. Nonsubstantial Modification

The County Administrator or designee is authorized to approve administratively nonsubstantial modifications in the approved master plan, but shall not have the power to approve changes that constitute a substantial modification. If the requested revisions to the MPUD are nonsubstantial, the following information shall be provided:

### a. Applicant Statement

A statement by the applicant specifying the exact nature of the changes proposed to the master plan and/or conditions and an analysis of the applicability of the substantial modification standards.

### b. A copy of the approved master plan.

### c. A graphic or map indicating:

- (1) The boundaries of the MPUD.
- (2) Identification of the portion of the MPUD proposed for change.
- (3) Areas of the MPUD currently undeveloped.
- (4) Areas that are under separate ownership.

### d. A revised master plan showing the proposed changes.

### e. Evidence that the proposed change does not subject the MPUD to additional concurrency review pursuant to this Code, Section 1301.

## 3. Review and Determination

Upon receipt of a completed application for the nonsubstantial modification with all required documents, County staff shall have thirty (30) days to review and request revisions. Such time frame shall not apply to DRI related MPUD, which shall be governed by statutory standard. DRI related MPUD may necessitate a longer review period.

Upon receipt of responses to comments and requested revisions from the applicant, the County Administrator or designee shall issue a nonsubstantial determination in writing within ten (10) days along with any conditions to ensure compliance with the Comprehensive Plan and this Code. Any changes on the master plan that are not included in the narrative statement required pursuant to this Code shall not be considered approved by the County.

A change of any aspect, attribute, or feature of the development that may be considered nonsubstantial which may adversely impact the site or surrounding area as determined by the County Administrator or designee, which would be inconsistent with the Goals, Objectives, and Policies of the Comprehensive Plan or general standards for development approval as set forth in this Code, may be considered substantial or require a hearing before the DRC, the latter of which would require notice to the public by mail and posting in accordance with Section 306.

O. Deviations from Approved Plans

Deviations from approved master plans or failure to comply with any requirement, conditions, or safeguard imposed by the BCC during the approval or platting procedure shall constitute a violation of this Code.