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MEMO:

To: Sedro-Woolley Planning Commission

From: John Coleman, AICP
Planning Director

Date: March 20, 2018

Subject: Updates to Planned Residential Development Regulations – Ch17.43 SWMC – Continued

ISSUE

The Planning Commission is continuing its detailed discussion of proposed amendments to the Planned Residential Development (PRD) regulations in Chapter 17.43 of the Sedro-Woolley Municipal Code (SWMC). After several months of discussion on possible PRD updates, no strong examples from other communities have seemed to fit well for the City of Sedro-Woolley. Staff has found another example that may be useful for the PC to review. The City of Ferndale's PRD regulations (they refer to them as PUDs) may be a useful reference or template.

The Ferndale PRD regulations address several issues that the Planning Commission has been interested in incorporating into the Sedro-Woolley PRD regulations. For example, it allows for clustering, private streets, narrower streets, multi-unit buildings and limited commercial development to be incorporated into a PRD. It also addresses buffer requirements. This is an issue that was briefly raised, but the merits of buffers may need further discussion.

Ferndale's density regulations are based on number of units allowed per acre. Density in Sedro-Woolley's R-15 zone is also based on number of units per acre (15 units per acre), however density in the R-5 and R-7 zones are not based on number of units per acre, instead those zones limit the minimum size of lots to 8,400 sf in the R-5 zone and 6,000 sf in the R-7. The Ferndale template would have to be modified to accommodate the difference in how density is allowed. However, this will not be a difficult task. Ferndale used to use minimum lot sizes as Sedro-Woolley does in the R-5 and R-7 zone, so their PRD ordinance used to be written to address minimum lot size. Similar to the other examples that the PC reviewed in the past, Ferndale's regulations do not allow for density bonuses.

Today's Planning Commission review of the PRD regulations will focus on improving the next set of draft amendments. No new draft amendments have been proposed for this meeting. Please see the previous staff memo (available on the Planning Commission meeting page at http://www.ci.sedro-woolley.wa.us/governing_bodies/planning_commission/planning_meetings.php) for the last draft PRD regulations. Please note that, based on today's discussion, the previous draft PRD regulations are likely to be amended significantly.

ATTACHMENTS

Attachment 1 – City of Ferndale PRD regulations (Ferndale Municipal Code Chapter 18.68 also available at <http://www.codepublishing.com/WA/Ferndale/#!/Ferndale18/Ferndale1868.html#18.68>).

RECOMMENDATIONS

Discuss possible PRD amendments.

Chapter 18.68

PLANNED UNIT DEVELOPMENT (PUD) – RESIDENTIAL

Sections:

- 18.68.010 Purpose.
- 18.68.020 Applicability.
- 18.68.030 Definition of terms.
- 18.68.040 Types of planned unit developments.
- 18.68.050 Design standards – Residential planned unit development.
- 18.68.060 Owner’s association.
- 18.68.070 Restrictive covenants.
- 18.68.080 PUD street design standards.
- 18.68.090 Relationship to adjacent areas.
- 18.68.100 Project phasing.
- 18.68.110 Permissible initiators of planned unit developments.
- 18.68.120 Review and approval process.
- 18.68.130 Criteria for approval of a planned unit development.
- 18.68.140 Modifications and amendments.
- 18.68.150 Time limits and extensions.
- 18.68.160 Enforcement.

18.68.010 Purpose.

The objective and intent of this chapter is to provide a method by which the City may permit a variety of development types, designs or arrangements that may not be permissible under traditional zoning techniques yet still provide for the protection of public health, safety and welfare. In such instances, the applicant may propose a development proposal which, if approved, would in effect replace the underlying zoning subject to specific guidelines and restrictions. This chapter is not intended to establish densities that are less than would normally be anticipated within the underlying zone, or to permit a preponderance of single-family residential development in multifamily zones. This chapter is also intended to implement the goals of the City’s Comprehensive Plan, specifically to:

- A. Promote infill development within established neighborhoods;
- B. Allow cluster development in such a fashion as to avoid development within environmentally sensitive areas;
- C. Provide open space areas;
- D. Preserve property rights;
- E. Encourage innovative housing techniques;
- F. Encourage affordable housing projects;
- G. Provide a public process for the review of PUD applications;
- H. Allow cluster development in such a fashion as to meet the density expectations within the underlying zone;
- I. Provide appropriate buffers between dissimilar land uses;
- J. Encourage the design of low impact stormwater methods that are integrated into the design of buildings, infrastructure and site design so as to minimize impacts to the natural environment and the aesthetics of the built environment. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006)

18.68.020 Applicability.

A residential planned unit development application may be submitted for any property with a residential land use designation located in the City, including the urban residential zone; provided, that no planned unit development

application shall be approved in the FW – floodway zoning district that would authorize structures or land uses that are otherwise prohibited in the FW – floodway zoning district. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006)

18.68.030 Definition of terms.

A. “Air-space condominium” means a development where all property, including the structures, is owned in common by an association.

B. “Buffer area” means an area located on the perimeter of a planned unit development site that is reserved for screening and/or landscaping purposes to separate the planned unit development from adjoining land uses which are incompatible with uses within the planned unit development. No building construction, vehicle parking, or outdoor storage of materials is permitted within a required buffer area, although required buffer areas may include privately maintained trails and pathways if adequate screening from adjacent land uses is provided between the trail and the adjacent use, in the judgment of the Zoning Administrator. Required buffers shall be established on separate parcels or tracts owned by the homeowner’s association, and shall not be owned by individual property owners, though individual owners may be permitted to maintain such buffers pursuant to covenants, codes and restrictions associated with the subdivision. Vegetative buffers shall include easements allowing the City to access the buffer to verify compliance with these requirements.

C. “Cluster development” means a development technique of placing lots closer together by reducing lot width and lot size requirements for the purpose of preserving environmentally sensitive areas or open space and/or reducing infrastructure costs. For the purposes of this definition, clustering does not by itself result in increased density.

D. “Critical area” means landslide hazard area, erosion hazard area, seismic hazard area, volcanic hazard area, frequently flooded area, aquifer recharge area, stream corridor, and wetland, as defined under Chapter 16.08 FMC.

E. “Environmentally sensitive area” means critical areas, nonregulated mature stands of native vegetation, and steep slopes.

F. “Open space area” means all portions of a PUD project that are not private lots, buildings, or public rights-of-way. Open space area includes all usable and nonusable open spaces.

G. “Postage stamp condominium” means a development where all property, except the buildings (and the land described by the footprint of the building), is owned in common by an association. See also “townhouse.”

H. “Site area” means the combined size of any and all parcels, tracts and lots that are included within a PUD application. Site area shall exclude all public rights-of-way existing at the time of PUD applications, but shall include any private easements that are located within the site.

I. “Townhouse” means a style of housing where three or more independent dwelling units share walls.

J. “Usable open space,” for the purposes of this chapter, may include open play areas, wooded areas accessible by a path system, structured picnic areas, equipped playgrounds, sports fields, game courts, swimming pools, recreational buildings, clubhouses, gazebos, pedestrian and bicycle paths, landscaped and unfenced detention ponds, community gardens, nature interpretive areas, and other similar areas and structures. Low impact stormwater infrastructure located within common areas of the planned unit development may be included in usable open space calculations in limited circumstances, when a licensed stormwater professional can demonstrate that active use in and around the stormwater infrastructure will not diminish its effectiveness.

K. “Usable open space” may not include lots, dwellings, private yards, outdoor storage, streets and any associated rights-of-way, driveways, parking areas, fenced stormwater detention ponds, critical areas and their associated buffers, slopes in excess of 15 percent, areas with any dimension less than 10 feet, and required perimeter buffers that do not include screened trails and pathways (where applicable). Low impact stormwater systems such as rain gardens, and low-slope detention ponds which are integrated into landscaping along trails and pathways, may be considered open space. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006)

18.68.040 Types of planned unit developments.

All planned unit development applications shall fall within one of the following categories:

- A. Planned unit development – residential.
- B. Commercial and industrial planned unit developments shall be administered in accordance with Chapter 18.69 FMC. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006)

18.68.050 Design standards – Residential planned unit development.

- A. Minimum site area: one acre.
- B. Where permitted: A residential planned unit development may be located on property in the RS 10.5, RS 8.5, RS 6.5, RO, RM 1.5, or UR zoning districts.
- C. Uses Permitted.
 - 1. Any residential use or mixture of residential uses, including manufactured housing developments.
 - a. Within residential single-family zones, multifamily development should be screened by single-family residences within the planned unit development, unless adjacent to a commercial or multifamily zone.
 - b. Within the residential multifamily and residential office zones, a minimum of 60 percent of all residential units must be in the form of multifamily development, and single-family residential uses shall utilize no more than one-half of the total lot area of the planned unit development that is devoted to residential purposes, exclusive of required open spaces, buffer areas, and related infrastructure such as streets and stormwater facilities.
 - 2. Neighborhood retail commercial uses intended to primarily serve the residents of the planned unit development, including grocery stores, mini marts, drugstores, bakeries, restaurants, professional offices and services including barbershops, beauty shops, dry cleaning and laundry services and similar uses in nature and effect. Such uses shall be limited to a maximum of 10 percent of the site area and in no case shall exceed five acres in size.
 - 3. Churches, clubhouses, schools and other similar public gathering places.
 - 4. Other uses as determined by the Hearings Examiner or City Council to be appropriate within a specific residential planned unit development.
- D. Permitted Density. Density shall be allowed as determined in the underlying zone, and the Comprehensive Plan, as shown in the table below. Densities higher or lower than those allowed in the underlying zone shall be denied by the City. Achieved density shall be calculated by dividing the site area by the number of units proposed in the development and rounding up to the nearest whole number.

Underlying Zone	Comprehensive Plan Designation	Minimum Density (Per Gross Acre)	Maximum Density (Per Gross Acre)
RS 10.5	Low Density Residential	3	7
RS 8.5	Low Density Residential	3	7
RS 6.5	Medium Density Residential	7	12
RM	High Density Residential	12	27
RO	High Density Residential	12	27
UR	High Density Residential/ Commercial	15	No Maximum

E. Buffer Requirements. Unless exempted below, landscaping and other screening features such as berms and/or fencing shall be established within the required buffer area(s) to provide a solid screen separating the development site from adjoining properties. Building setbacks within the residential planned unit development shall be a minimum of 30 feet from any exterior property boundary. A minimum 20-foot-wide landscaped buffer shall be established around the entire perimeter of any residential planned unit development. Trails and other pedestrian connectivity may be used to replace buffer requirements in certain locations.

1. The City may grant flexibility from some or all perimeter buffering and external building setback requirements based on the following:
 - a. The average lot size within the proposed PUD is no less than 80 percent of the conventional minimum lot size within the underlying zone.
 - b. The proposed PUD is adjacent to an existing residential planned unit development or residential subdivision with average lot sizes not less than 80 percent or more than 120 percent of the average lot size within the proposed PUD.
 - c. Building construction types and uses are similar in nature between the proposed PUD and adjacent developments.

All applications for a residential planned unit development shall include a detailed landscaping plan, identifying the type, size, spacing and maintenance schedule for all landscaping proposed within the required buffer area. All buffer area restrictions shall be clearly noted on the final plat or other legal document to advise potential lot purchasers/residents of said buffer restrictions.

F. Landscaping shall be consistent with the requirements of Chapter 18.74 FMC, Ferndale Landscape Standards.

G. Lot Sizes. Lot sizes within the residential planned unit development may be reduced in area; however, no lot may be smaller than 4,000 square feet. This restriction shall not apply to “postage stamp,” “townhouse,” or “air-space” condominium developments.

H. Usable Open Space. All residential planned unit developments shall contain usable open space based upon the following table. Recreational amenities shall be provided in an amount appropriate to the size and characteristics of the anticipated residential population of the PUD.

Table I: Required Usable Open Space Areas

Total Lot Area	Usable Open Space Required
1.01 – 3 acres	10% open space or 4,000 square feet of contiguous space, whichever is greater
3.01 – 4 acres	10% open space or 14,000 square feet of contiguous space, whichever is greater
4.01 – 6 acres	15% open space or 26,000 square feet of contiguous space, whichever is greater
6.01 acres and above	20% open space

I. Building Setbacks. Dwelling units shall be set back a minimum of five feet from a property boundary; provided, that no buildings may be set back less than 20 feet from a public right-of-way or placed within a required buffer area; except that zero-foot side yard setbacks may be permitted when identified upon an approved site plan. The City may allow front, side or rear setbacks that are a minimum of 10 feet from private alleys or private streets; provided, that the applicant can demonstrate that vision triangles shown in the Ferndale Development Standard Detail Drawing R-19 are preserved and that other life-safety issues are properly addressed.

J. Lot Configuration. Lots within a residential planned unit development may vary from the depth, width and size requirements established in Chapter 17.28 FMC, except that each lot must include a buildable area outside of required setbacks and buffer areas of no less than 40 feet in width and 40 feet in depth. This restriction shall not apply to

“postage stamp,” “air-space” condominium, “single-family attached” dwelling units, and “residential townhome” developments. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1528 § 1, 2009; Ord. 1400 § 2, 2006)

18.68.060 Owner’s association.

All PUD applications must include preliminary bylaws for an owner’s association and, upon approval of a PUD application, the applicant shall convey by deed all private streets, sidewalks, walkways, curbs, gutters, stormwater drainage facilities, utilities, and all other common areas and open space areas to an owner’s association. The owner’s association shall be empowered to collect dues and assessments and to enforce covenants, conditions, and restrictions and any rules and regulations deemed necessary for the governing of development and use of each lot and common areas within the PUD. The owner’s association may not be dissolved nor may it convey any property within the PUD without the express written approval of the Ferndale City Council. If a homeowner’s association becomes inactive, the City shall be authorized to assess the costs of performing maintenance on the individual property owners based on the pro-rata share of the maintenance costs. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.070)

18.68.070 Restrictive covenants.

All PUD applications must include preliminary covenants, conditions, and restrictions (CC&Rs) which clearly describe responsibilities for operation and maintenance of commonly owned elements of the PUD. The CC&Rs shall include the following:

A. Architectural control standards, which shall be approved by a licensed architect. The architectural control standards shall be designed to reflect a unified architectural concept in terms of style, form, bulk, colors, and materials. A coordinating architect, architectural review board, or other such mechanism shall be established by the owner’s association to review all plans submitted by lot owners within the PUD to ensure compliance with the architectural control standards. All lot owners shall be required to submit building and design plans to the established reviewing body prior to construction of any building on any lot within the PUD.

B. Landscape and lighting plan, identifying the type, size, spacing, and maintenance schedule for all landscaping (including lighting elements) proposed within the required buffer areas, open space areas, and other common areas. Maintenance of all landscaping, buffer areas, and open space areas shall be the responsibility of the owner’s association and all individual lot owners. All future purchasers of lots within the PUD shall be required to sign an acknowledgment indicating knowledge and compliance with these maintenance responsibilities. The City may require that a maintenance bond be posted in an amount representing 125 percent of the estimated costs of maintaining any of these areas for a period of three years from the date of final PUD approval. If the owner’s association and/or the individual lot owners fail to adequately maintain the landscaping, buffer areas, and open space areas, then the City shall have the right to take any enforcement action necessary to ensure compliance with the CC&Rs, including but not limited to the right to impose any necessary charges, assessments, and liens. The City shall have the right to recover all costs, including attorney’s fees, incurred in any enforcement action. Nothing herein, however, shall require the City to take any action on behalf of the owner’s association or lot owner or other citizen to enforce the CC&Rs.

C. Private Street Maintenance Plan. In the event that private streets are approved within a PUD, the CC&Rs shall describe responsibilities for the maintenance of the private streets. Whenever a private street is approved within a PUD, all street related improvements shall be maintained by the owner’s association. Street related improvements include, but are not limited to, automobile travel lanes, parking areas, bicycle lanes, turn-around areas, sidewalks or other pedestrian walkways, curbs, gutters, catch basins, or any other storm drainage facilities, street lights, street signs or pavement markings, medians, planting areas, or similar improvements. If the owner’s association and/or the individual lot owners fail to adequately maintain the private streets and related improvements, the City shall have the right to take any enforcement action necessary to ensure compliance with the CC&Rs, including but not limited to the right to impose any necessary charges, assessments, and liens. The City shall have the right to recover all costs, including attorney’s fees, incurred in any enforcement action. Nothing herein, however, shall require the City to take an action on behalf of the owner’s association or lot owner or other citizen to enforce the CC&Rs.

D. Stormwater maintenance plan identifying the location and type of private stormwater facilities to be owned and/or maintained, individually or collectively, by the owner(s) or tenant(s) of the PUD. The stormwater maintenance plan must also include the recommended schedule for inspections of these facilities. Should there be private stormwater facilities on individual lots within the development such as rain gardens, bio-swales or similar, the

maintenance plan shall include the design and recommended maintenance schedule for each facility. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.080)

18.68.080 PUD street design standards.

All streets to be constructed within the interior of a planned unit development site or existing streets fronting on a planned unit development site shall be improved in accordance with City standards as identified in the City development standards manual and shall be dedicated to the City of Ferndale. In some instances, streets within a planned unit development may be private; provided, that the applicant can demonstrate the following:

- A. Minimum safety standards for emergency vehicle access are provided within the planned unit development.
- B. Adequate travelway width for the anticipated levels of traffic, including appropriate provisions for off-street and on-street parking, backing, vehicle stacking, pedestrian movements, bicycle movements, truck turning movements and improvements necessary to accommodate public transit are provided.
- C. Street layout within the planned unit development is consistent with the surrounding street system and shall not preclude remote parcels of property from gaining access to the City street system.
- D. Approval of a private street would not negatively impact the traffic circulation in the surrounding neighborhood or area.
- E. The Comprehensive Plan does not identify any through streets extending across the planned unit development site.
- F. The applicant demonstrates the ability to maintain a private street system within the planned unit development.
- G. The final plat documents shall reference any restrictive covenants regarding private streets and shall include an acknowledgment statement indicating City policy to refuse consideration of private streets for dedication unless or until said private streets can be improved to meet current minimum City standards. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.090)

18.68.090 Relationship to adjacent areas.

When a residential PUD will be located adjacent to an established neighborhood within the City limits, the PUD shall be designed such that the lots adjacent to the established neighborhood shall have the minimum lot size, height limits, and setbacks required by the zoning of the adjacent established neighborhood. If minimum lot size, height limits, and setbacks do not conform to the zoning within the adjacent neighborhood, a minimum vegetated buffer shall be required as per FMC 18.68.050(E). (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.100)

18.68.100 Project phasing.

A. If a proposed PUD is to be constructed in phases, the applicant shall submit a phasing plan with the application materials. If a project is to be phased, it shall be designed such that each phase can “stand alone” so that if subsequent phases are not constructed, the completed portion of the project constitutes a coherent development logically interconnected with surrounding areas.

B. Certain project elements, such as open space and recreational amenities, must be provided for each phase of development in rough proportion to the size of the particular phase within the whole project. In certain circumstances, this may also require that infrastructure improvements shown within a later phase of the project may be required to be constructed with an earlier phase, or appropriate securities provided to ensure that construction occurs even if the later phase never takes place. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.110)

18.68.110 Permissible initiators of planned unit developments.

Permissible initiators of planned unit development are:

- A. The owner of all the property involved, if under one ownership; or

B. An application filed jointly by all owners having title to all the property in the area proposed for the planned unit development project, if there be more than one owner; or

C. A person having an interest in the property to be included in the planned unit development. The planned unit development application shall be in the name or names of the recorded owner or owners of property included in the development. The application may be initially filed by holder(s) of an equitable interest in or option on such property; provided, that written permission from the property owner(s) is included with the application. In such cases, the applicant must evidence a full ownership interest in the land (either legal title or the execution of a land sales agreement) before final approval of the applicant's plan. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.120)

18.68.120 Review and approval process.

A. Prospective applicants for PUD projects shall schedule and pay for an informal review of the project conceptual plans with the Technical Review Committee prior to submittal of any applications.

B. After preliminary review by the Technical Review Committee, but prior to submittal of applications, the applicant shall arrange for and hold an informal community meeting at a location and on a day of the week and time convenient to surrounding property owners. The applicant shall:

1. Extend written invitations to, at a minimum, all property owners within 300 feet of the project property boundaries; and
2. Post a notice of the community meeting at two prominent locations on the project site at least 10 days prior to the scheduled date of the meeting. The notices shall be on City-supplied public notice signs paid for by the applicant; and
3. Explain the project concept to the surrounding property owners and solicit input as to the issues which concern them; and
4. Prepare a written report documenting the community meeting, summarizing the issues raised, and describing how the applicant intends to address the issues raised in the project design; and
5. Submit said written report and an audio or audio/video recording to the City for inclusion with the application materials.

C. The applicant shall submit concurrently a PUD application, a land division application (e.g., long plat, short plat, binding site plan, as applicable), a SEPA checklist, and appropriate filing fees for determination of completeness. At a minimum, the application package shall include:

1. A site plan with information consistent with that required for a standard site plan review.
2. A preliminary plat map (including a preliminary road and utilities plan) consistent with the requirements of the City subdivisions ordinance, FMC Title 17.
3. Architectural renderings, perspective drawings, or photographs of like structures shall be submitted sufficient to illustrate the architectural concept of the project.
4. A preliminary landscape and lighting plan. The plan should identify natural areas to be retained, landscape buffers, usable open space, and recreational amenities, together with proposed lighting. Calculations of the amount of usable open space shall be provided.
5. Preliminary covenants, conditions, and restrictions (CC&Rs) which clearly describe responsibilities for operation and maintenance of commonly owned elements of the PUD.
6. The written report of the community meeting held prior to submittal of the applications.

D. Once the applications have been determined to be complete, the PUD application will be included on the next available agenda for formal review by the Technical Review Committee.

- E. Once a SEPA threshold determination has been issued, the PUD application may be scheduled for a public hearing before the Hearings Examiner.
- F. Based on the record developed at the public hearing the Hearings Examiner will make a recommendation and forward it to the City Clerk for inclusion on the next available City Council agenda.
- G. Based on the recommendation of the Hearings Examiner, and the record developed at the public hearing, the City Council will make a decision on the PUD and associated plat applications.
- H. Following the decision of the City Council, the applicant shall make any required revisions and submit the revised PUD site plan and revised preliminary plat to the City for staff review, approval, and stamping. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.130)

18.68.130 Criteria for approval of a planned unit development.

The City may approve a planned unit development application only if it finds that the following requirements have been met:

- A. The applicant has consulted with surrounding property owners prior to submittal of the application.
- B. The applicant has filed a proper application and followed the procedural steps required by this chapter and other applicable chapters of the Ferndale Municipal Code.
- C. The density of the proposed PUD is consistent with that of the underlying zone (as modified by this chapter) and the Comprehensive Plan.
- D. The proposed PUD will not result in a significant adverse impact on the environment, as evidenced by an appropriate threshold determination under SEPA, and the project will incorporate in its design any mitigation measures identified during the SEPA review.
- E. The project will result in the protection, preservation, or enhancement of environmentally sensitive areas that may exist on the property.
- F. The project design includes buffers where necessary and lot development patterns adjacent to established neighborhoods consistent with the requirements of this chapter.
- G. The project design includes usable open space in an amount that meets the requirements of this chapter, and which includes particular elements appropriate to the size and character of the anticipated population of the PUD.
- H. The applicant has proposed and demonstrated that there will be sufficient legal mechanisms put in place to guarantee the continued operation and/or maintenance of all commonly owned elements of the PUD in perpetuity. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.140)

18.68.140 Modifications and amendments.

An approved PUD may be modified or amended upon written request of the property owner(s).

- A. Modifications are considered minor changes to an approved PUD, which may be approved administratively, and which do not:
 - 1. Increase the number of units or density of a residential PUD.
 - 2. Change the mix of uses.
 - 3. Significantly alter the amount or arrangement of open space or recreational amenities, or the treatment of environmentally sensitive areas that may exist on the site.
 - 4. Significantly alter the approved architectural concept of the PUD.
 - 5. Significantly alter the basic layout of the approved project infrastructure.

- B. Amendments are major changes to an approved PUD that do not qualify as modifications.
- C. Proposed PUD amendments shall be processed in the same manner as a PUD application, including noticed public hearing, Hearings Examiner review and recommendation, and review and approval by the City Council. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.150)

18.68.150 Time limits and extensions.

A. The PUD approval, and the approval of any associated preliminary plat or other land division approval, shall be valid for five years from the day it is approved by the City Council. Construction on any and all phases of a PUD must be complete for final PUD approval within five years of the preliminary PUD approval; provided, that there may be a two-year extension as provided herein.

B. A PUD and any associated preliminary plat or other land division, pursuant to FMC 17.20.090, may be extended by resolution of the City Council for a maximum of two years; provided, that:

1. A written request for extension has been received at least 30 days prior to the date of expiration; and
2. The applicant demonstrates that extraordinary and unforeseen circumstances have precluded compliance with the five-year time limit. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1600 § 5, 2010; Ord. 1400 § 2, 2006. Formerly 18.68.160)

18.68.160 Enforcement.

A. If the applicant does not begin and substantially complete the planned unit development, or any phase of the planned unit development, within the time limits imposed by FMC 18.68.150, the Planning Director shall review the planned unit development and may recommend to the City Council that:

1. The time for its completion be extended, upon a showing that the project can be completed within six months, and that the applicant has posted bond or other acceptable securities to ensure completion of any unfinished work; or
2. The approval of the planned unit development be revoked.

B. The approved final plat and approved PUD site plan are binding and shall be a restriction on development which runs with the land. Any unauthorized deviation therefrom shall be punishable and enforceable as a violation of this title. (Ord. 1933 § 6 (Exh. 6), 2016; Ord. 1664 § 1 (Exh. 1), 2011; Ord. 1400 § 2, 2006. Formerly 18.68.170)