

Existing PUD

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Planned unit development (PUD). That when a tract of land is under unified control and contains at least 15 acres, the developer may be allowed to deviate from the strict application of use, setback, height, and minimum lot size requirements of zoning districts in order to permit a creative approach to the development of residential and commercial land. In exchange for the flexibility, the developer must have a site plan approved by the governing board and comply with the other requirements of a special use permit. This approach is a voluntary alternative, and it is not mandatory for the development of any parcel of land. Land developed in this manner shall be in keeping with the city's comprehensive plan and shall be, if approved, and over-lay district of one or more of the districts listed in section (b).

(b) *Location.* Planned unit developments are permitted in the R-R, R-20, R-15, R-MF-A, R-MF-C, R-MF-T, B-2, and L-I districts.

(c) *Permitted uses.* All the permitted and special uses in the zoning district where the PUD is located are allowed (see exception below). In addition, one, two-family and multifamily residential uses are be permitted. Commercial and office space will be permitted if they are primarily for the convenience and service of the residents of the development and represent no more than 20 percent of the total development acreage.

(1) *Exceptions.* Any use that would be detrimental to the adjoining properties with regards to safety, health, and welfare.

Proposed new mixed-use district

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Mixed Use. The M-U District is intended to accommodate a Unified Development Plan (UDP) containing residential uses and at least one nonresidential use with the mix of uses achieved through incorporating multiple uses within a single building or by single-use buildings located throughout the site. The size and intensity of M-U developments may vary based on their physical context and location. Appropriate setbacks, streetyards, bufferyards, and building heights among other site and design elements will be considered to ensure compatibility of the development on a site-specific basis and shall be, if approved, a Conditional Zoning district.

(b) *Minimum Size.* 5 acres

(c) *Permitted Uses.* Within a M-U district, all uses are permitted except agricultural uses, as found in Sec. 32-197, and those uses permitted only within the L-I district or H-I district.

Comments and comparisons

In reviewing this proposed text amendment, staff and the applicant decided to recommend adding a new district to our current use districts (R-R, R-20, R-15, R-MF-A, R-MF-C, R-MF-C, R-MH, R-MH-1, R-MH-2, O-I, B-1, B-2, PD-RC, L-I, and H-I) and if approved **M-U** (Mixed-Use). This would allow this district to be approved as a conditional zoning just like the other districts. Our current PUD is an overlay district and is approved as a special use permit (SUP) which requires a quasi-judicial hearing.

Comparing the two definitions – The M-U district requires a site as does the PUD. M-U district calls this plan a UDP or unified development plan. Both allow for residential and commercial uses which are defined later in the text. Both allow for a creative approach with regards to setbacks, heights, and lot sizes. The PUD sets a minimum acreage size (or starting point) of 15 acres or more. The M-U will set a minimum acreage size of 5 acres or more.

Comparing the next 2 sections – The existing PUD list the district that can be found in the PUD overlay. Then the developer/designer can develop an overlay plan. The new M-U district proposes a minimum tract size of 5 acres. This seems small for a mixed-use type development but could work.

The existing PUD in item (c) goes over what can be in the PUD overlay district. It allows single family (R-20, R-15), multi-family (R-MF-A, C, T), or commercial (O-I, B-2, or L-I). Commercial uses are only allowed up to 20% of the total site. It also contains an exception statement that allows the city to not allow any use that would be bad for the citizens of King. M-U is a use district thus it can be placed almost anywhere by rezoning. The applicant is requesting that agriculture not be allowed within this district which is understandable. In the M-U district any use as listed in 32-198 thru 206, is allowable. Could there be a use such as manufactured homes that we would want to exclude. This could be addressed in the conditions of the rezoning, but we have no guarantees that the applicant would agree to the condition(s).

(d) *Dimensional requirements.* The dimensional requirements of [section 32-248](#) are waived except for the following:

- (1) No structure shall be in excess of 35 feet (three stories) in height.
- (2) A ten-foot side yard setback shall be maintained on all single-family dwelling units. A 20 feet separation shall be maintained between multi-family buildings.
- (3) A 20-foot setback shall be required around the entire perimeter of the PUD or as set forth in [section 32-259](#), buffering.

(e) *Single and multi-family dwelling units.* shall be designed per [chapter 26](#) for single-family and [sections 32-245](#), [32-246](#), or [32-247](#) for multi-family.

(f) *Commercial areas.* if used in the design, shall be of similar architectural design theme. See [sections 32-244](#) and [32-254](#).

(g) *Conveyance and maintenance of common open space.* A common open space shown on the final development plan shall be conveyed in accordance with one of the following methods:

- (1) By dedication to the city and maintained as common open space; or
- (2) By leasing or conveying title (including beneficial ownership) to a corporation, association, or other legal entity.

The city has the right to accept or reject the dedication of any common open space. The developer shall file in the county register of deed's office legal documents restricting the use of common open space for the designated purposes. The city shall review and approve these documents before they are submitted to the office of the register of deeds.

(d) *Dimensional requirements.* The dimensional requirements of section 32-241 are waived except for the following:

- (1) *Minimum Lot Size.* Provisions governing minimum lot size are established by the Unified Development Plan.
- (2) *Minimum Interior Setbacks.* The minimum interior setback is zero feet, however if a setback is provided, it must be at least 5 feet pending applicable fire and building codes.
- (3) *Minimum Perimeter Setback.* For portions of the development adjoining any R-district, the interior setback standards of the adjoining district apply along the adjoining lot line.
- (4) *Minimum Street Setbacks.* Provisions governing minimum street setbacks are established by the Unified Development Plan.
- (5) *Maximum Height.* Within 50 feet of any R-district, the maximum height of a building may not exceed 50 feet or 3 stories except along the right-of-way of a railroad or a street right-of-way that is already constructed or is being constructed as part of the planned development. Provisions governing maximum height are established by the Unified Development Plan for all other portions of the development.
- (6) *Density.* Provisions governing the maximum residential density of the development are established by the Unified Development Plan. Exception – any tract(s) found within the city's WS-IV watershed. Tract(s) located within this area must meet the requirements of Sec. 32-288 for density and/or built upon area provisions.

Comparing the next section (d) – the current PUD allows for a waiver on setbacks, lot sizes, and lot widths with the exception of 3 items. A limit of 3 stories in height (this due to building code deeming anything more than 3 stories as a high-rise structure and firefighting of a high-rise structure), a 20' setback on single family and multi-family homes/building (this is for fire separation reasons), and a 20' setback around the project boundaries (this for buffering measures). Density is based on 32-241 and is a set figure both inside and outside the watershed.

The M-U district being proposed waives minimum lot sizes in item (1) so the developer could propose lot sizes in the 5,000 – 10,000 range. This is true on the existing PUD but city council has never allowed less than a 10,000 sq. ft. lot. Item (2) waives all interior setbacks were the PUD holds a 20' setback. So, you could see single family dwellings almost abutting each other. Item (3) the M-U district only has a setback if the district abuts a residential district, so approximately 30'. Item (4) states that street setbacks will be stated on the UDP. Item (5) states that residential uses are limited to 3 stories but all commercial uses are established by the UDP. So, we might see a 4 + story commercial structure. Item (6) max. density is unlimited unless the tract falls within the watershed where it is limited to 3 dwelling units/acre.

PUD items (e), (f), (g) – Item (e) gives standards to go by when building single and multi-family. Item (f) gives design standards for commercial uses (20% of the site). Item (g) gives standards for conveyance of any open space/recreational areas.

(h) *Circulation facilities.* The arrangement of public and common ways for pedestrians and vehicular circulation in relation to other existing or planned streets in the area, together with provisions for street improvements, shall be in compliance with standards set forth in other chapters of the ordinances, city construction manual, or per state requirements. PUD's with more than 100 single-family and multi-family lots shall have two means of ingress/egress to a city or NCDOT collector street. The governing board may deviate from these standards if the proposed changes or alterations are consistent with the spirit and intent of this section.

(i) *Utilities.* All planned unit developments shall provide underground utilities. All installation of utilities and maintenance of utilities shall be in accordance with the requirements and regulations of the city, public utilities companies, or the state. Public water and sanitary sewer systems shall be required.

(j) *PUD review.* It is the intent of this section that review under applicable codes and ordinances be carried out as an integral part of the review of a planned unit development. The city govern board shall review all technical requirements for a PUD and then make a ruling on the proposal. The applicant is required to show proof and present evidence that they have met the requirements of the ordinances prior to the granting of the special use permit. Permits once issued are good for 12 months from the date of approval as long as work is progressing on the project. Expired permits or plan amendments can be renewed/approved pending review by the governing board. Single-family areas approved in the PUD will need to be reviewed by the planning board prior to construction documents being submitted for compliance with [chapter 26](#).

(e) *Landscape & Buffering.* Provisions governing landscaping are established by the Unified Development Plan. Perimeter buffering shall meet the minimum requirements per sec. 32-259.

(f) *Commercial areas.* Commercial areas and adjacent residential and office areas must be arranged to provide pedestrian access and circulation between and within such areas. In mixed use and nonresidential buildings, ground level street facades shall incorporate pedestrian oriented elements such as, but not limited to, storefront display windows, covered arcades, awnings, and pedestrian level building fenestration.

(g) *Common Open Space and Recreation Facilities.* A minimum of five percent (5%) of the total land area of the proposed mixed-use district shall consist of common open space. Common open space may include, but shall not be limited to, the following: plazas, public squares, recreational amenities such as tennis courts or swimming pools, pocket parks, and community gardens. Common open space and types of recreation amenities to be provided shall be established by the Unified Development Plan.

(h) *Conveyance and maintenance of common open space and recreation amenities.* A common open space or recreation amenity shall be conveyed in accordance with one of the following methods:

- (1) By dedication to the city and maintained as common open space or a public recreation facility; or
- (2) By leasing or conveying title (including beneficial ownership) to a corporation, association, or other legal entity.

Item (h) under our existing PUD covers circulation around the proposed project. This would include both vehicular and pedestrian ways. It gives standards and guidelines for the design professional to use to maximize the site in safety as well as efficiency. It also contains a statement regarding the need for 2 means of egress/ingress for residential projects with over 100 single-family lots.

The M-U district addresses this in item (i) later.

Item (e) in the M-U district goes over its buffering requirements which refer to the ordinance buffering requirements for perimeter buffers but leaves interior buffering up to the UDP. Which means buffering may or may not be used between unlike uses.

Item (f) in the M-U district covers standards for commercial areas in conjunction with residential mixed-use areas. Such as a structure with commercial on the first floor with one or two levels of residential above. This subject is not addressed in our existing PUD but we do allow it in our ordinance as a use in by right in B-1 and B-2 districts.

Item (g) in the M-U district addresses open space and recreational spaces. It requires a minimum of 5% of the total land area to be in either common open space or recreational space. What's in the recreational space, if provided, is not stated other than it will be shown in the UDP. So, a large M-U project may have limited or no recreational space(s). It may be left in open spaces such as plazas, public squares, or public gardens. In our existing PUD, we defer to the section of the ordinance that covers single or multi-family uses. In those sections we give specific square footage requirements based on the number of units being built. We also detail what must be in the recreational areas. We require in addition to recreational spaces, open space requirements of 10% for townhomes, 12% for condos, and 15% for apartments.

Item (h) of the M-U district reads the same as our existing PUD with the exception of the deletion of the last statement/paragraph. See item (g) of the existing PUD standards above.

Item (i) under the PUD covers public utilities and meeting their individual installation standards. The proposed M-U district reads the same.

Item (j) under the PUD describes the manner in which a PUD must be approved which is by the issuance of a SUP by the council. It also states that single family sections must be reviewed by the planning board and meet the standards of Chap. 26 – Subdivisions.

- (i) *Circulation facilities.* The arrangement of public and common ways for pedestrians and vehicular circulation in relation to other existing or planned streets in the area, together with provisions for street improvements, shall be in compliance with the standards set forth in other chapters of the ordinance, city construction manual, or per state requirements. M-U's with more than 100 single family lots and/or multifamily units shall have two means of ingress/egress to a city or NCDOT collector street. The governing board may deviate from these standards if the proposed changes or alterations are consistent with the spirit and intent of this section. Proposed street cross sections shall be outlined on the Unified Development Plan.
- (j) *Parking and Loading.* Off-street parking and loading must be provided in accordance with Sec. 32-359 and Sec. 32-392. For any permitted use in a M-U district the required amount of parking may be reduced by thirty percent (30%). This reduction shall not affect the required disabled parking or loading spaces for that use. On-street parking can count towards parking requirements.
- (k) *Signage.* A common sign plan shall be required as part of the Unified Development Plan specifying the size, type, height, setback, location and number of signs. Specifications must be at least as restrictive as the regulations per Sec. 32-433.
- (l) *Utilities.* All M-U districts shall provide underground utilities for proposed new utilities. All installation of utilities and maintenance of utilities shall be in accordance with the requirements and regulations of the city, public utilities companies, or the state. Public water and sanitary sewer systems shall be required.
- (m) *Mixed use district review.* It is the intent of this section that review under applicable codes and ordinances be carried out as an integral part of the review of a mixed-use district. The city governing board shall review the request and set a public hearing date for the conditional rezoning of the tract. Prior to the governing board reviewing and taking action on the request, the city planning board shall review the request and make a recommendation to the governing board who will in turn review the technical requirements of the

Item (i) under the M-U district goes over their proposed circulation requirements which are basically the same with the exception of the last sentence.

Item (j) in the M-U district goes over parking and loading requirements. Our PUD just refers the designer to our parking ordinance section. They are proposing the same with one exception, they are proposing that parking be reduced by 30%. It doesn't say if this is for either single, multi-family, and commercial or all three. This could have a large impact on achieving enough parking for the project.

Item (k) deals with signage and is per our sign ordinance requirements.

Item (l) is regarding installation of utilities and is per our ordinance requirements.

Item (m) in the M-U district is defining the approval process for have a tract of land rezoned to M-U. It would follow the ordinance requirements for CZ rezoning.

Unified Development Plan and then make a ruling on the proposal. Unified Development Plans shall be good for 24 months from the date of approval as long as work is progressing on the project. Expired Unified Development Plans or major plan amendments can be renewed/approved by the governing board. Minor amendments will be reviewed by the city staff prior to construction documents being submitted for compliance with chapter 26 and 32.

- (n) *Unified Development Plan.* The Unified Development Plan must contain the following materials:
- (1) *Concept Plan.* Concept plan showing proposed public roads, street cross sections, development tracts with list of proposed uses, maximum permitted density and/or building square footage for non-residential uses, impervious surface coverage if in a watershed, schematic water and sewer service layouts, general locations for stormwater control measures, and proposed phase lines, if any.
 - (2) *Common Sign Plan.* Common Sign Plan per Sec. 32-248.2 (l).
 - (3) *Documentation and CZ regulations.* Documents which specify proposed setbacks or other regulations governing building placement, and/or volunteered conditions may be provided. The applicant may use district regulations provided by this ordinance or may propose regulations unique to the development. In no case may the Unified Development Plan leave any area proposed for development unregulated. Proposed documentation and regulations can be included as notes on the Concept Plan.
 - (4) *Phases.* All phases must be shown on the Unified Development Plan and numbered in the expected order of development. The phasing must be consistent with the open space, traffic, circulation, drainage and utilities (water & sanitary sewer) plans for the overall planned development.
 - (5) *Traffic Memorandum.* A traffic memorandum prepared by a licensed traffic engineer showing the anticipated traffic generation of the project and recommended traffic improvements shall be provided. As applicable, a Traffic Impact Analysis for review by the city engineer and/or NCDOT shall be provided prior to the issuance of driveway permits.

The M-U district does change the UDP approval timeframe from 12 months, as in our current PUD, to 24 months. Since this is a conditional rezoning the tracts that are rezoned would stay the same zoning but the UDP would expire in 24 months if no work (a vested right has been established) has begun.

Item (n) defines in detail what is required in the UDP.

Item (n) subsection (5) states that the developer shall provide a “traffic Memorandum” at the time of applying for the rezoning. If the project is approved for rezoning, then the developer would prepare their construction plan and submit them along with a “Traffic Impact Analysis”, if required, at this review stage. This is way beyond when I would think the planning board and city council would need/require a detailed traffic analysis.

