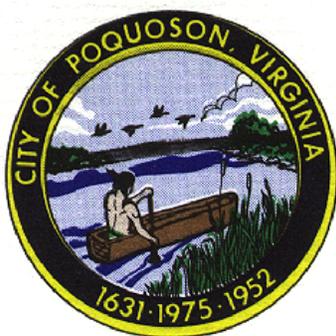


1. Planning Commission Agenda January 21, 2021

Documents:

[JANUARY 21, 2021.PDF](#)

CITY OF POQUOSON



POQUOSON PLANNING COMMISSION

January 21, 2021

WORK SESSION AGENDA

**POQUOSON PLANNING COMMISSION
THURSDAY, January 21, 2021, 6:00 P.M.
COUNCIL CHAMBERS – 500 CITY HALL AVENUE**

Discussion Items

- 1. Amendment to Article I of the Zoning Ordinance regarding the definition of *Farmers Market*.**
- 2. Discussion of possible code amendments.**

Farmers Market



CITY OF POQUOSON

COMMUNITY DEVELOPMENT

500 CITY HALL AVENUE
POQUOSON, VA 23662
(757) 868-3040 TELEPHONE
(757) 868-3105 FAX

Poquoson Planning Commission Work Session

January 21, 2021

Discussion of Amending the Definition of 'Farmers Market,' Section 1-3 of the City Zoning Ordinance

Current Definition:

Farmer's Market: A place where farmers or other people who are engaged in truck farming gather regularly for the purpose of selling produce and goods produced at their farms. The sale of seafood is included in this definition.

Outdoor display of seasonal items as part of a farmer's market is permitted by right in B-2.

Flea Markets are not defined, but are allowed as Conditional Uses in the B-2 District.

Neighboring Locality Definitions:

York County

Farmer's Market: same as Poquoson

Flea Market: An open area in which stalls or sales areas are set aside and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. This definition shall not be construed to include side-walk sales by retail merchants, fruit or produce stands, bake sales, or garage, yard or rummage sales held in conjunction with and incidental to residential uses or sponsored and conducted by religious, civic or charitable organizations on their own property.

Hampton

Flea Market: An area for the open air retail sales of new and/or used merchandise, where space is provided to individual vendors.

Newport News

Does not define markets, but regulates them as 'Special Sales':

No person shall conduct any sales, commonly known as "rummage sales," "food sales," "bazaars" or "flea markets," at which is offered for sale food, secondhand, used or new clothing or wearing apparel or other used or new articles of whatever character, without first having obtained a permit therefor from the city manager or the manager's designated representative.

James City County

Farmer's Market: An occasional or periodic market held in a structure or open area where farmers sell their produce or farm products.

Flea Market: An occasional or periodic market held in a structure or open area where one or more individuals offer goods for sale to the public. "Flea market" does not include sales held by charitable or nonprofit organizations not more than four times a year, *farmer's* market or garage sales.

Gloucester County

Farmers' Market: A seasonal gathering of vendors in a predetermined, centralized location for the display of hand-made or regionally harvested agricultural, horticultural, silvicultural, and/or seafood products, excluding livestock, produced off-site and brought to the market for sale; the occasional sales of pumpkins, Christmas trees, and other annual products shall also be permitted.

Flea Market: A temporary (occasional or periodic) commercial market held in a structure or open area where one (1) or more individuals are involved in the setting up of tables, platforms, racks or similar display areas for the purpose of selling, buying, or exchanging merchandise, goods, materials, products or other items. This definition shall not be construed to include sidewalk sales by retail merchants, fruit or produce stands, bake sales, or garage/yard or rummage sales held in conjunction with residential uses or sponsored activities conducted by religious, civic, charitable or nonprofit organizations conducted not more than four (4) times a year.

Questions for the Planning Commission:

- 1. Should the City definition of 'Farmers Markets' be made more inclusive of homemade/handicraft sales, such as those taking place at the market currently permitted on Victory Blvd?**
- 2. Should the City define 'Flea Markets' as separate from farmer's markets? How would this impact the existing Poquoson Farmers Market?**
- 3. Should the Poquoson Farmers Market CUP be amended to be more inclusive of retail/handicraft uses, outside the traditional scope of a 'farmers market'?**

PUD Articles



CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA

23662-1996

(757) 868-3040 TELEPHONE (757) 868-3105 FAX

To: The Honorable Chairwoman and Members of the Planning Commission

From: Wally Horton, Director of Community Development

Date: January 21, 2021

Subject: Work Session Discussion of Possible Ordinance

As the Commission is aware, there is a need to address the PUD Articles in the Zoning Ordinance. I have included a first-blush review of the current VIII.2 and VIII.4 in the Zoning Ordinance. Article VIII.3 can await some of the decisions we make for Article VIII.4. You will note red strikethroughs on code wording that can be eliminated and my comments/revisions in blue. That being said, there are several issues that require Planning Commission feedback.

1. It appears that a “whittling down” of requirements into two parts instead of the current three is not feasible.
2. We need to focus on landscaping and buffer requirements. I will review some of our suggested text and solicit additional feedback.
3. There are some other needed changes as well which I will review with the Commission as well as soliciting other feedback.

My plan is to give you the Ordinances and give you a month to prepare your feedback, which can be discussed at the February work session

This will apply to future projects and not the Legacy Project.

CWH

T

ARTICLE VIII.2. - PLANNED DEVELOPMENT DISTRICTS—GENERALLY

Section 8.2-1. - Purpose and intent.

The planned development district is *includes the planned unit development-waterfront (PUD-W) and planned unit development-mixed use (PUD-MU) zoning districts. It is intended to provide for variety and flexibility in design necessary to implement the various goals and objectives set forth in the comprehensive plan. In addition, these regulations are intended to promote economical and efficient land use through unified development; improved levels of amenities; appropriate and harmonious physical development; creative design; and a better environment than generally realized through conventional district regulations. In view of the substantial public advantages of a planned development, these regulations are intended to encourage the planned development approach in areas appropriate in terms of location and character.

Planned development districts shall be developed to provide for the comfort and convenience of residents and/or visitors; to facilitate the protection of the character of surrounding lands, and neighborhoods; and to lessen traffic impacts through a reasonably short travel time between origins and destinations of persons living, working, or visiting in such developments. Housing, commercial and service facilities and places of employment shall be related either by physical proximity or by adequate street networks so as to promote these objectives.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-2. - Relation of planned development district (PDD) regulations to other zoning regulations.

The regulations in article VIII.2 shall apply to the establishment and regulation of **all planned development districts.

An applicant may request that any requirements of ~~article VIII.3 or~~ (~~***Redundant~~) the planned development district regulations be ~~***waived or~~ modified if it is found: (~~***Numerals are mine to break out language~~)

1. ~~**That the requirements are to be~~ inconsistent with planned development design principles and
2. That the ~~waiver or~~ modification is consistent with the intent and purposes of the planned development district under the particular circumstances ~~**and does not conflict with specific language of Articles VIII.3 or VIII.4 of this ordinance.~~

If the applicant requests such a ~~***waiver or~~ modification as part of the master plan, the applicant shall submit the request in writing as part of the application, and shall demonstrate that the ~~***waiver or~~ modification would not adversely affect the public health, safety or general welfare and, ~~***in the case of a requested modification,~~ that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification. Any request for such a ~~***waiver or~~ modification from the regulations specified in the zoning, subdivision, site plan and sign ordinances shall be reviewed and considered as part of the master plan.

~~**New Paragraph Needed Here (Format Change)~~ **Subsequent to the approval of the master plan, any additional ~~***waivers or~~ modifications of the requirements of the zoning, subdivision, site plan and sign ordinances must be reviewed by the planning commission and city council pursuant to sections 8.2-7 and 8.2-8 of this article. In addition to making the findings required for the granting of a ~~***waiver or~~ modification, such ~~***waiver or~~ modification may be granted only if it is also found to be consistent with the intent and purposes of the planned development district under the particular circumstances.

~~***NOTE: Waivers are covered in Articles VIII.3 and VIII.4~~

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-3. - Planned development defined.

A planned development is a development that meets all of the following criteria: (1) the land is under unified control and will be planned and developed as a whole; (2) the development is in general accord with one or more approved master plans; and (3) the development will provide, operate and maintain common areas, facilities and improvements for some or all occupants of the development where these features are appropriate.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-4. - Permitted locations.

A planned development district may be established in any development area identified in the comprehensive plan as a mixed use.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-5. - Applications and documents required.

Each application for a planned development district shall be submitted in the same manner as other zoning map amendments. The documents required by subsections (a) through (g) below shall be prepared by licensed professionals and shall be submitted with the application. The ~~city manager~~ *****Zoning Administrator or designee** may request additional plans, maps, studies and reports which are deemed reasonably necessary to analyze the application:

- (a) A regional context map at a scale of not less than one inch equals 1,000 feet showing topography at a minimum of one foot intervals, surrounding properties, improvements to those properties, surrounding public streets, private roads, and other thoroughfares;
- (b) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:
 - (1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;
 - (2) Additional on-site and off-site public facilities or services which would be required as a result of the development;
 - (3) A traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the zoning administrator. Such study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, capacity of surrounding roads, and road and access improvements;
 - (4) Fiscal impact of the proposed project such as estimated revenues to be generated versus the cost of public improvements/services necessary to support the development. Such study shall be prepared by an individual or firm qualified to conduct a fiscal impact analysis in a manner and form acceptable to the zoning administrator;
 - (5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and
 - (6) Employment opportunities to be generated by the development.
- (c) An accurate boundary survey of the tract or plan limit showing the location and type of boundary evidence;
- (d) A map showing:

- (1) The following existing physical conditions: identification of specimen trees, tidal and non-tidal wetlands, resource protection areas, streams, wooded areas, floodplain and historic structures and sites included in the records of the Virginia Department of Historic Resources;
 - (2) Existing topography accurately shown with a one-foot contour interval at a scale of not less than one inch equals 100 feet;
 - (3) Existing roads, easements, and utilities;
 - (4) The existing owners and zoning district;
 - (5) The present use of adjoining tracts and the location of structures on adjoining parcels, if any; and
 - (6) The existing location and the size of ingress and egress to the site.
- (e) An application plan based on a minimum of two data references for elevations to be used on plans and profiles showing:
- (1) The areas to be designated as preservation areas, if appropriate, and areas to be designated as conservation areas, such as streams, wooded areas, specimen trees, endangered species, tidal and non-tidal wetlands, and other significant environmental features;
 - (2) The proposed grading/topography with one foot contour intervals;
 - (3) The general location of proposed streets, alleys, sidewalks, and pedestrian paths;
 - (4) Typical street cross-sections to show proportions, scale and streetscape;
 - (5) Connections to existing and proposed streets, as well as proposed thoroughfares shown on the comprehensive plan;
 - (6) Trip generation figures;
 - (7) The general lay-out for the water and sewer systems, conceptual stormwater management, and a conceptual mitigation plan;
 - (8) The location of central features or major elements within the development essential to the design of the development, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas;
 - (9) A summary of land uses including dwelling types and densities, and the gross floor areas for commercial uses;
 - (10) The general lot layout;
 - (11) Standards for development including proposed yards, building heights, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing within and at the edge of the district; and
 - (12) A landscape plan.
 - (13) [***A lighting plan.](#)
- (f) Architectural sketches of typical proposed residential and non-residential structures, typical recreation areas, typical landscaping and screening areas, and typical development clusters. In addition, architectural specifications, guidelines, review procedures, statement of architectural variety and enforcement mechanisms for architectural review of all buildings and structures shall be provided; and
- (g) Covenants and restrictions, including maintenance agreements, for the proposed development.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-6. - Preapplication conferences.

Prior to the submission of a planned development the applicant shall attend a joint meeting with the planning, engineering, and zoning staff to review the proposed development master plan concept. The purpose of the preapplication conference shall be to assist the applicant in ensuring that the plan and the documents to be formally submitted for review generally comply with all of the applicable regulations, and to identify as soon as possible conflicting regulations and needed **waivers or** modifications.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-7. - Review and recommendation by the planning commission.

Each master plan for a planned development shall be reviewed by the planning commission as follows:

- (1) The commission shall consider and make its recommendation to the city council on each plan for a planned development district within 90 days of the date the complete application is referred to the planning commission. Within the time provided to make a recommendation, the planning commission shall conduct a public hearing pursuant to Code of Virginia (1950) § 15.2-2204, as amended.
- (2) In making its recommendation on the plan to the city council, the commission shall determine the following:
 - a. The suitability of the tract for the proposed planned development in terms of its relation to all applicable provisions of the comprehensive plan; physical characteristics of the land; and its relation to the surrounding area;
 - b. The relation of the proposed planned development to roads, utilities, public facilities and services; and
 - c. Each requested waiver or modification, including whether the requirements of section 8.2-2 are satisfied.
- (3) Depending on its findings, the commission shall either recommend approval of the plan as proposed, approval of the plan with changes or disapproval. If a period of 90 days has elapsed after the date of referral to the planning commission the plan shall be deemed approved by the planning commission and forwarded to city council.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-8. - Review and action by the city council.

The city council shall consider and act on each application for a planned development district upon receiving a recommendation from the planning commission. Approval of the application by council shall constitute approval of the master plan and all standards for development submitted by the applicant and shall also identify proffers that have been accepted and waivers or modifications granted.

Once approved, the master plan, all submitted standards for development, and all accepted proffers shall be included as part of the zoning regulations applicable to the planned development.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-9. - Site plan and subdivision development plan and plat requirements.

Each site plan and subdivision plat submitted for development in a planned development shall comply with the following:

Generally. Each site plan for a planned development shall comply with Appendix C, Site Plan Ordinance, of the Code of Ordinances of the City of Poquoson, subject to the waiver or modification of any such regulation pursuant to section 8.2-7(2)c. Each subdivision plat for a planned development shall comply with Appendix B, Subdivision Ordinance, of the Code of Ordinances of the City of Poquoson subject to the waiver, variation or substitution of any such regulation pursuant to section 8.2-7(2)c.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-10. - Review of site plans and subdivision development plan and plats.

Each preliminary and final site plan, or subdivision development plan and plat for a planned development shall be reviewed for compliance with the applicable regulations: (1) in effect at the time the lands was zoned as a planned development district; or (2) those regulations currently in effect, as elected by the applicant. In addition, each preliminary and final site plan or subdivision development plan and plat for a planned development shall be reviewed for compliance with the following:

- (a) The approved plan and the approved standards for development, the accepted proffers, and the authorized waivers or modifications and any conditions imposed therewith, if any; and
- (b) The permitted uses within the planned development zoning district, including all proffers as determined by the zoning administrator.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-11. - Variations from approved plans, codes, and standards of development.

***A variation of an approved ~~site plan or subdivision development plan or plat~~ **site plan** for a planned development may be allowed as provided herein:

- (a) The zoning administrator is authorized to grant a variation from the following provisions of an approved plan, code or standard:
 - (1) Minor variations to yard requirements, maximum structure heights and minimum lot sizes;
 - (2) Changes to the arrangement of buildings and uses shown on the plan, provided that the major elements shown on the plan and their relationships remain the same;
 - (3) Changes to phasing plans;
 - (4) Minor changes to landscape or architectural standards; and
 - (5) Minor variations to street design.
- (b) The applicant shall submit a written request for a variation to the zoning administrator. The request shall specify the provision of the plan, code or standard for which the variation is sought, and state the reason for the requested variation. The zoning administrator may reject a request that fails to include the required information.
- (c) The zoning administrator is authorized to grant a variation upon a determination that the variation: (1) is consistent with the goals and objectives of the comprehensive plan; (2) does not increase the approved development density or intensity of development; (3) does not adversely affect the timing and phasing of development of any other development in the zoning district; (4) does not require a conditional use permit; and (5) is in general accord with the purpose and intent of the approved application.
- (d) Any variation not expressly provided for herein may be applied for by rezoning.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-12. - Building permits and erosion and sediment control permits.

Building permits and erosion and sediment control permits may be issued as provided herein:

- (a) A building permit, including any special footings or foundation permits, may be issued for any work within a planned development, excluding the installation of street signs, only after the approval of the final site plan or final subdivision plat in the area in which the permit would apply.
- (b) ???An erosion and sediment control permit may be issued for site preparation grading associated with an approved planned development if a satisfactory erosion and sediment control plan has been submitted and reviewed in conjunction with the application plan, ~~and~~ the proposed grading is determined to be consistent with the approved application plan, ***a stormwater permit has been issued, and a Stormwater Pollution Prevention Plan (SWPPP) has been approved. If enough detail is not provided on the approved master plan to ensure consistency, no erosion and sediment control permit shall be issued until the final site plan is approved, or the final plat is tentatively approved.

*** NOTE: It is our practice not to issue a land disturbance permit until a site plan/ development plan is approved with fees and bonding secured,

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

Section 8.2-13. - Amendments to planned development districts.

Each amendment to a planned development district shall be submitted and reviewed as provided in article VIII.2. In addition, with each application to amend the area of the planned development district, proffers, the master plan, or the general development plan within an area that is less than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended proffers, master plan, or general development plan will apply.

The following nonrefundable fees shall be paid upon filing:

(1) *Master plan:*

- (a) One thousand two hundred fifty thousand dollars plus \$100.00 per acre (fee includes rezoning application, master plan and supporting documentation review fee).

(2) *Site plans ***review fee:*

- (a) Three hundred dollars ~~***(\$300.00)~~ plus ~~***three dollars~~ \$3.00 per 1,000 square feet of gross floor area of all non-residential structures.
- (b) Two hundred dollars ~~***(\$200.00)~~ plus ~~***ten dollars~~ \$10.00 per dwelling unit for residential structures.
- (c) One hundred fifty dollars ~~(\$150.00)~~ for erosion and sediment control.
- (d) Inspection fees as prescribed in ~~section 2-08~~ of the site plan ordinance.

(3) *Subdivision development plan ***review fee:*

- (a) Three hundred dollars ~~***(\$300.00)~~ per plan plus ~~***40 dollars~~ \$40.00 per lot.
- (b) One hundred fifty dollars ~~***(\$150.00)~~ for erosion and sediment control.
- (c) Two hundred dollars ~~***(\$200.00)~~ plan resubmission fees (for 3rd and each subsequent submittal of development plans).

- (d) Development fees as prescribed in section 5-11 of the subdivision ordinance.
 - (e) Three hundred dollars ~~***(\$300.00)~~ for final recordation plat review.
- (4) *Sign permits:*
- (a) Twenty-five dollars ~~***(\$25.00)~~ per sign.
- (5) All other fees associated with development in the City of Poquoson including, but not limited to, bonds, land disturbance permits, building permits, et cetera.
- (6) ~~*** Beginning January 1, 2010~~ Fees will be adjusted annually, if necessary, to reflect the consumer price index as determined by the Federal Government rounded to the next dollar.**

Any person desiring to develop land in accordance with this article shall prepare and submit 20 copies of the application documents with associated payments and fees to the zoning administrator for processing.

(Ord. No. 1349, § 1, 11-23-2009; Ord. No. 1474, § 1, 10-28-2013)

ARTICLE VIII.4. - PLANNED UNIT DEVELOPMENT—MIXED USE OVERLAY DISTRICT

Sec. 8.4-1. - Intent, where permitted.

A planned unit development-mixed use (PUD-MU), district may hereafter be established by amendment to the zoning map in accordance with the provisions set forth generally for planned development districts in article I, section 1-11 and article VIII.2 of the zoning ordinance with densities and uses in locations in accordance with recommendations of the comprehensive plan. These districts are intended to serve as neighborhoods or mini-neighborhoods integrating business, retail, cultural, recreational and residential uses in designated communities.

To encourage the community function, appropriate commercial uses are provided in addition to a variety of residential uses. It is intended that commercial development be provided at a scale appropriate to support the residential uses within the PUD-MU, provided that additional commercial activity may be permitted upon a finding that the area in which the PUD-MU is to be located is not adequately served by such use.

Mixed use development proposals should address the following objectives:

- a) Promote a more efficient use of land over conventional development;
- b) Produce superior quality in development design and construction;
- c) Produce a pedestrian-friendly environment to reduce vehicular trips within the community;
- d) Create an appropriately balanced mix of residential and non-residential uses that respects the underlying land use objectives of the comprehensive plan;
- e) Provide alternative housing choices and opportunities; and
- f) Promote the assemblage of smaller parcels to enhance a unified development concept otherwise not achievable through traditional independent development practices.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-2. - Permitted uses—Residential.

Within residential areas approved on the master plan, permitted uses shall be as follows subject to the requirements and limitations of this ordinance:

- (a) *By right.*
 - (1) Detached single-family dwellings;
 - (2) Semi-detached and attached single-family dwellings such as duplexes, triplexes, quadraplexes, townhouses, atrium houses and patio houses;
 - (3) Multi-family dwellings;
 - (4) Private roads, driveways, parking spaces and aisles;
 - (5) Parks, playgrounds, clubhouses and noncommercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms and similar uses, *****subject to federal safety standards and ADA requirements;**
 - (6) Privately owned electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances;
 - (7) Public uses and buildings including facilities such as community centers, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies, main

lines or trunk lines for public water and sewer transmission, pumping stations and similar uses;

- (8) Temporary construction uses with valid permits;
 - (9) Accessory uses and structures ~~***including home-occupation~~, in accordance with sections ~~4-7 and~~ 1-23 and article XIV of the city zoning ordinance; and
 - (10) Stormwater management facilities shown on the approved final site plan or subdivision plat.
- (b) *By conditional use permit.* The following uses shall be permitted only by conditional use permit, provided a separate application shall not be required for any such use included in the original PUD-MU rezoning petition:
- (1) Child or adult day care facilities;
 - (2) Public schools;
 - (3) Nursing, convalescent, assisted living, retirement and similar institutions;
 - (4) Regional electrical power substations, transmission lines and related towers, gas or oil transmission lines, pumping stations and appurtenances, and unmanned telephone exchange centers; and
 - (5) Stand-alone parking facilities.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-3. - Permitted uses—Business/commercial/service.

In general, business/commercial/service areas and uses should have adequate visibility and access from public streets. Furthermore, uses that generate high traffic volumes should be oriented along Victory Boulevard. Within these business/commercial/service areas as approved on the master plan, permitted uses shall be as follows subject to the requirements and limitations of this ordinance:

- (a) *By right.*
- (1) Offices for professionals such as lawyers, architects, accountants, doctors, dentists and consultants;
 - (2) Retail sales of grocery, personal and household goods and wares, flowers, plants, books, pharmaceuticals, antiques, crafts, etc. Repair of such uses is also permitted. No individual use shall occupy more than 15,000 square feet of floor area without a conditional use permit;
 - (3) Eateries to include restaurants, bakeries, confectioneries, coffee houses, cafes, bars and delis;
 - (4) Personal service shops such as barbershops, hairdresser, shoe repair and tailors;
 - (5) Financial institutions;
 - (6) Studios for the performing arts;
 - (7) Theaters for the performing arts, including motion picture;
 - (8) Child and adult day care, convalescent/nursing care, assisted living and retirement facilities;
 - (9) Public and private educational facilities;
 - (10) Community recreational facilities;

- (11) Accessory structures and uses customarily incidental to the above permitted uses occupying no more area than 50 percent of the primary use; and
 - (12) Mixed-use buildings with business, commercial or service uses on the ground floor and residential or office uses on the upper floors. Further, where there is mixed business/office and residential uses in a building, there shall be provided a separate, private entranceway for the residential use(s). Ground floor business, commercial, or service uses shall not exceed 15,000 square feet per use.
- (b) *By conditional use permit.* The following uses shall be permitted only by conditional use permit provided a separate application shall not be required for any such uses included in the original PUD-MU rezoning petition:
- (1) Hospitals or emergency care facilities, including animal hospitals.
 - (2) Business, commercial and service uses occupying more than 15,000 square feet of interior floor area or requiring outdoor storage, display or service activities occupying more than 50 percent of the accompanying indoor space;
 - (3) Automobile, equipment or engine sales, repair or detailing services;
 - (4) Fuel sales;
 - (5) Uses with drive thru or drive in facilities located adjacent to single-family residential uses;
 - (6) Convenience stores with fuel sales;
 - (7) Funeral homes if located adjacent to single-family residential uses, otherwise permitted by right;
 - (8) Places of worship, including accessory parochial schools, day care services and cemeteries located adjacent to single-family residential uses, otherwise permitted by right; and
 - (9) Motels and hotels with accessory/subordinate use such as restaurants and conference and convention facilities.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-4. - Minimum area required for establishment of district.

- (1) Minimum area required for the establishment of a PUD-MU district shall be five acres.
- (2) Additional area may be added to an established PUD-MU district if it adjoins and forms a logical addition to the approved development. The procedure for an addition shall be the same as if an original application was filed, and all requirements shall apply except the minimum acreage requirement of this section.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-5. - Perimeter buffers and open space.

- (a) *Open space.* A minimum of 20 percent of the project area as shown on the master plan shall be designated as open space. (**Section Reformatted by WH)
 - 1. A 40-foot wide ***enhanced landscaped or naturally wooded buffer shall be maintained around the perimeter of the project area and can be included in the open space requirement.
 - a. ***An existing naturally wooded buffer shall be maintained where it is present at the pre-development stage within the required buffer on property or properties.

- b. Enhanced Landscaping shall be added in cases where there are either gaps in the existing naturally wooded buffer or where landscaping as defined in this Ordinance is not present.

***NOTE: New definitions needed as follows:

*****Buffer, Naturally Wooded: A buffer consisting of preserved trees and other wooded plants**

*****Landscape: ***a combination of lawns, trees, plants and other natural materials, such as rock and wood hips installed as prescribed in this Ordinance. and decorative features, including sculpture, patterned walks, fountains and pools. (Not sure if we want to go there...) (from the book of development definitions). The term "Landscape" shall include the word "Landscaping".**

***** Landscape, Enhanced: An expanse of a naturally wooded buffer where pre-existing; with landscaping used to fill in gaps within such expanses, to include one canopy tree, two understory trees and three small shrubs in total per each 400 square foot unit. Instead of grasses between plantings, flowering plants shall be utilized. The term "Landscape, Enhanced" shall include the word "Landscaping".**

*****Landscaped: Planted in accord with the definition of Landscape.**

*****Landscaped, Enhanced: Preserved and planted in accord with the definition of Landscape, Enhanced.**

2. Credits for open space may be given for enhanced landscaping, and/or other amenities as deemed appropriate by the city council during district approval of the master plan.
 3. ~~***In addition,~~ the 40-foot perimeter buffer requirement can be waived by city council if the proposed district's perimeter boundary lies adjacent to property subject to the same PUD-MU district designation in the comprehensive plan. However, the perimeter buffer cannot be waived if an adjoining parcel is developed per the uses allowed in the respective underlying zoning district unless said adjacent parcel has been developed for commercial purposes, in such case council may allow for a buffer reduction of up to 20 feet.
- (b) *Uses permitted in open space.* Open space may be maintained in either its natural or an enhanced state *****in accord with Section 8.4-5.a above** as shown and noted in the landscape plan of the development as required in the application process for a planned development district. Where deemed appropriate by the city council, open space may be used for one or more of the following uses subject to the regulations of the zoning district in which the development is located and subject to local, state and federal approvals:
- (1) Noncommercial recreational structures and uses;
 - (2) Public utilities and maintenance easements;
 - (3) Stormwater management facilities to include significant drainage swales and maintenance easements;
 - (4) Non-tidal wetlands and land designated as a special flood hazard area by the city's flood insurance risk map and 100-foot resource protection area buffer; and
 - (5) Areas to provide reasonable buffering between dissimilar uses within such development and between the development and adjoining properties.

Redesign of such proposed development may be necessary to accommodate open space areas as may be required under this provision; provided that, in no case, shall such redesign result in reduction of the total number of proposed dwelling units otherwise realizable under this ordinance for conventional development.

- (c) *Ownership of open space.* In general open space shall be in private ownership and shall be protected by legal arrangement sufficient to ensure its perpetual maintenance and preservation for purposes for which it is intended. Such arrangement shall be subject to the zoning administrator's [or designee's](#)*** approval as a part of the site development plan and/or subdivision plat approval process. Open space may be dedicated for public use subject to approval and acceptance by separate resolution of the city council. Open space so dedicated shall be counted as a part of the minimum required open space.

(Ord. No. 1473, § 1, 10-28-2013; Ord. No. 1494, § 1, 6-23-2014)

Sec. 8.4-6. - Residential areas.

- a) The gross and net residential densities permitted in a PUD-MU district shall be shown on the approved master plan. The overall gross density shall be determined on a case-by-case basis in consideration of the character of the project, property and surrounding area, the anticipated fiscal and service impact of the project and any other factors the city council deems appropriate. However, in no case shall residential density exceed 12 dwelling units per acre as recommended by the comprehensive plan.
- b) For the purposes of this article, delineated and declared non-tidal wetlands may be utilized in calculating residential unit yield in a PUD-MU district. Such wetlands, when used for such purpose, shall be incorporated into open space and perpetually maintained and protected from disturbance by establishment of a conservation easement that shall be recorded with the approved recordation plat of the development. The percentage of non-tidal wetlands credit within a project boundary may vary from 50 percent to 100 percent provided that the 12 unit per acre maximum residential density yield is reduced by one unit for every 10 percent of non-tidal wetland credit granted over 50 percent. The utilized wetlands must be located within the same project boundary as the residential dwellings. Non-tidal wetlands used for density calculation cannot be used as credit in calculating open space requirements prescribed in section 8.4-5 of this article. Tidal wetlands are not subject to this credit allowance.
- c) Community recreational facilities such as playgrounds, parks and swimming pools shall be provided at a scale and design appropriate to support the residential component of the PUD-MU district, [***subject to federal safety standards and ADA requirements](#). Such facilities shall be located within areas commonly owned and maintained by the development's homeowner's association. The facilities shall be designed and located in areas easily accessible by residents of the development.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-7. - Business/commercial/service areas.

Business/commercial/service areas are intended to be of a scale, character and location appropriate to provide convenient services for the residents and visitors of the PUD-MU district. To this end, where practical, business/commercial/service areas should be oriented with emphasis on internal pedestrian access. Total business/commercial/service area shall be based on dwellings served. The size of individual establishments shall be limited to avoid the impression of a large scale general commercial district absent of residential, recreational and cultural components. Development applications are encouraged to orient more intense uses of the district on public streets at the gateway to the community to enhance function and visibility and further enhance sustainability and viability of the use and the community served.

- (a) The total gross floor area of uses permitted in business/commercial/service areas shall be determined on a case-by-case basis in consideration of the project's objective and character and any other factor deemed appropriate by the city council. As a guideline, project proposals should be developed with the objective of providing at least 500 square feet of commercial/business/service floor area for every one acre of developed land within the PUD-

MU project. Outdoor display of service or sales areas shall be included in gross floor area calculations.

- (b) Construction within the PUD-MU district shall be sequenced in accordance with a project build-out schedule to be approved by city council with the master plan approval. The purpose of such development schedule is to provide assurances to the city council that the project will include both non-residential and residential elements at certain milestones and/or at build-out. As a guideline, no more than 75% of residential units shall be occupied for dwelling purposes until infrastructure, including but not limited to access, utilities and stormwater, supporting the non-residential areas is installed and accepted by the City. In cases where construction of non-residential buildings is not completed at 100% occupancy of residential uses, the future architectural design and site layout of the pending non-residential structure will be subject to an independent site plan review and administrative approval process regulated by the city site plan ordinance. If the zoning administrator *****or designee** finds that the proposed design and/or use of the non-residential structure is consistent with the overall character of the PUD-MU district previously approved by city council, the zoning administrator *****or designee** shall refer the independent development proposal to the city council for review and approval as set forth in article XIII.2 *****VIII.2** of the zoning ordinance.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-8. - General provisions.

The following shall apply for residential and commercial areas unless otherwise specified by city council during rezoning application approval:

- (a) *Height regulations.* Within the PUD-MU district, city council shall establish maximum building height standards at the time of master plan approval.
- (b) *Building separation for residential structures.* Within the PUD-MU district, city council shall establish minimum building separation standards at the time of master plan approval.
- (c) *Minimum building setback, lot area and yard regulations.*
- (1) *Internal.* Within the PUD-MU district, there is no minimum lot area and city council shall establish minimum setback and yard requirements at the time of establishment of such district with the exception of the following front yard requirements:
- ***Side, Rear??? Look at R-3 for guidance.**
- a) Single-family detached and attached single-family dwellings with attached front-load garages shall be setback 15 feet from the right-of-way line on a public street or the inner edge of pavement on a private street. The established front yard area shall be improved with a public pedestrian pathway and landscaping treatment. (*****What about side loading garages?**)
- b) Multi-family dwellings and attached single-family dwelling structures with no attached garages shall be setback ten feet from the right-of-way line on a public street or from the inner edge of pavement on a private street. The front yard area shall be improved with a pedestrian pathway and landscaping treatment.
- c) Structures, including mixed use buildings, shall be setback from Victory Boulevard according to the front yard requirements prescribed in the underlying zoning district within the PUD-MU boundaries.
- (2) *Outer perimeter.* Structures and yards to be located on the outer perimeter of a PUD-MU district that abuts adjoining property/public rights-of-way (excluding waterways) shall be located outside of the perimeter buffer.

(3) *Street design.* Public and private streets constructed within the PUD-MU district must be designed and constructed per the requirements of city policies, practices and standards as set forth in the subdivision, zoning and site plan ordinances.

(e)[d] *Minimum off-street parking:* Off-street parking requirements shall be as follows:

Single-family detached: Two spaces per unit exclusive of space provided in attached garages.

Multi-family units, including duplexes, single-family attached, and townhouses, triplexes, quadraplexes, atrium houses and patio homes.

Number of Bedrooms/Unit	Parking Spaces/Unit
Any unit of 500 square feet or less	1.25
One bedroom	1.50
Two or more bedrooms	2.00

In addition, one guest space per four dwelling units shall be provided.

Multi-family dwellings for the elderly: One and one-quarter spaces per unit.

Office use: One space per 250 square feet of gross floor area.

Retail use: One space per 200 square feet of gross floor area.

Restaurant: One space per four seats based on maximum seating capacity. Additional spaces for employee parking may be required by the zoning administrator ***or designee as deemed appropriate.

Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided a written agreement is filed with the zoning administrator ***or designee.

The design of parking spaces and bays shall conform to the design criteria outlined in the site plan ordinance.

For uses not specifically permitted the number of parking spaces required shall be determined by the zoning administrator ***or designee.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-9. - Sign regulations.

(a) *Permitted signs.* Signs within a PUD-MU shall be as prescribed in the sign ordinance, appendix D of the City Code.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-10. - Fence requirements.

The zoning administrator ***or designee shall review and approve all requests for fences located adjacent to public rights-of-way, easements and/or stormwater management facilities (both public and private) serving the PUD-MU district. In general, fences should measure no more than four feet in height and consist of a masonry, vinyl or wrought iron material. Fences located within internal areas of the district are subject to the development's covenants and restrictions.

(Ord. No. 1473, § 1, 10-28-2013)

Sec. 8.4-11. - Minimum architectural design.

New building facades visible from public and private streets, common open space, and common parking areas shall be articulated with windows, balconies, bay windows, ***articulated massing, or other architectural elements in order to achieve attractive architectural design. ***More Specific?

(Ord. No. 1473, § 1, 10-28-2013)