



Revision and Revocation of PUD Master Plans

Note: As authorized by § 8.5.2.C.1 (p. 401), this interpretation is provided at the initiative of the Zoning Administrator for the purpose of providing clarification to property owners and improving administration of the Ordinance. Capitalized terms are defined in § 9.3 of the Ordinance. This interpretation may be appealed to the Board of Zoning Appeals per § 8.5.17 of the Ordinance.

Summary

The Planning Commission may recommend revocation of a Preliminary Master Plan if the applicant fails to request approval of Final PUD Master Plan within two years of approval of the Preliminary PUD Master Plan. The Vested Property Rights Act of 2014 may extend the time for revocation.

A Preliminary Planned Unit Development (PUD) Master Plan remains in effect until the Planning Commission recommends revocation of the Master Plan and the City Council acts to revert the subject property to a different zoning designation. An applicant may request to revise a previously approved Preliminary PUD Master Plan at any time. Master plans approved under previous zoning ordinances are reviewed under the standards of the current ordinance.

The Planning Commission may approve a Final PUD Master Plan which refines the concept established in the Preliminary PUD Master Plan, provided the deviations are minimal and do not exceed thresholds established in the Ordinance. However, a Final PUD Master Plan may not deviate substantively from the Preliminary PUD Master Plan. In the event a proposed Final PUD Master Plan presents a substantively different concept for regulating development, it shall be reviewed as a revision to the Preliminary PUD Master Plan. A Final PUD Master Plan will expire, and the associated rezoning shall lapse and be of no further effect, if no actual construction is commenced within three years of approval of the Master Plan.

The Planning Commission may approve minor modifications to a Final PUD Master Plan during the “initial construction period.” City Council, upon the recommendation of Planning Commission, may approve significant modifications during the “initial construction period.”

Rationale

A PUD Master Plan is a zoning designation. The Zoning Ordinance recognizes three categories of PUDs: PUD-R (Residential), PUD-MU (Mixed Use), and Other PUDs (existing PUDs approved under previous zoning ordinances) (§ 3.7.1.C, p. 35; Table 3.7.1, p. 36-39). The option is available upon formal written findings by the Planning Commission and City Council that a proposed development involves a unique

site and the applicant presents an innovative plan of development that is superior to that achievable under one of the base zoning designations available under the Ordinance (§ 8.5.21.B, p. 451-452).

The designation of a property as a PUD on the Official Zoning Map is a zoning classification. The associated PUD Master Plan provides a customized combination of permitted Uses, Building Types, Private Frontage Types, Setbacks and Yards, Thoroughfares and Internal Drives which control development of the site (Table 4.3.1-K, p. 156; Table 4.3.1-L, p.168). The PUD Master Plan regulates the use of property in the same manner that the district standards in Table 4.3.1 regulate land zoned under character districts CD-2, CD-3L, CD-3, CD-4, CD-4C, and CD-5. The standards establish the activities and structures which are allowed “by right.” A PUD designation without a Master Plan is effectively a property with no zoning. The subject property must be assigned to a different zoning designation if the Master Plan is revoked.

The Ordinance provides a two-phase process of PUD approval. The Ordinance describes the process or review and approval for PUDs at § 8.5.21. The Preliminary Master Plan establishes the overall design of the PUD, fixes the allowed uses and bulk standards which will characterize the development, the architectural style, the proposed timeline for development, and the substance of covenants and easements which will encumber the property (§ 8.5.21.K; p. 456-457). The Planning Commission reviews the proposal and makes a recommendation to City Council (§ 8.5.21.M; p. 457-458). The rezoning takes effect upon approve by City Council (§ 8.5.21.N; p. 459).

The Planning Commission may review and approve a Final PUD Master Plan after the subject property has been rezoned under a Preliminary PUD Master Plan (§ 8.5.21.O-Q; p. 459-461). The Final PUD Master Plan establishes a detailed plan for the ultimate operation and appearance of the development (§ 8.5.21.O, p. 460). The Final PUD Master Plan may refine the concept presented in the Preliminary PUD Master Plan, provided there is no increase in residential density, substantial increase in non-residential uses, substantial reduction in open space/amenities, or significant deviation from the building types or uses, the “ultimate operation and appearance” of the development can be addressed in the Final PUD (§ 8.5.21.O and S; p.459 -462).

Preliminary Planned Unit Development (PUD) Master Plan remains in effect until the property is rezoned. The Zoning Ordinance authorizes the Planning Commission to recommend revocation of any Preliminary PUD Master Plan which do not advance to Final PUD Master Plan within two years of approval (§ 8.5.21.R; p. 461).¹ However, the revocation requires affirmative action on the part of the Planning Commission and City Council. At any time Prior to action by City Council to revoke the Master Plan and rezone the property, the applicant may request approval of a Final PUD Master plan or request to modify the Preliminary PUD Master Plan (8.5.21.J, p. 456).

¹ The Vested Property Rights Act of 2014 may extend the time for revocation. Even if all protections of vested development rights have expired, the PUD Master Plan remains in effect until the Planning Commission and City Council rezone the property.