CHAPTER 18

ZONING

SECTION 8

PLANNED DEVELOPMENT DISTRICTS - GENERALLY

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8.1 INTENT

The planned development districts are the Monticello Historic District (MHD), Planned Residential Development (PRD), Planned Unit Development (PUD), Neighborhood Model (NMD), Planned Development – Mixed Commercial (PDMC), Planned Development – Shopping Centers (PDSC), and Planned Development – Industrial Park (PD-IP) zoning districts. Each of these districts is distinct in purpose; however, all are intended to provide for variety and flexibility in design necessary to implement the various goals and objectives set forth in the comprehensive plan. Through a planned development approach, the regulations in section 8 are intended to accomplish the goals and objectives of the comprehensive plan to a greater extent than the regulations of conventional districts. 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 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 or visitors; to facilitate the protection of the character of surrounding lands, neighborhoods and the adjacent rural areas; 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.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

8.2 APPLICABLE REGULATIONS; WAIVERS AND MODIFICATIONS

Planned developments shall be subject to the following regulations in this chapter:

a. *Sections applicable*. Unless expressly superseded by a regulation of the applicable planned development district, the regulations of this chapter, other than those pertaining to conventional

development districts stated in sections 10 through 18, 20B, 22, 23, 24, 27 and 28, shall apply to each planned development district unless the subject matter is expressly addressed in the code of development under section 20A.5, or the regulation is waived or modified as provided in subsection 8.2(b).

b. *Waivers and modifications*. An applicant may request that any requirement of sections 4, 5, 21, 26 and 32, or the applicable planned development district regulations be waived or modified by the board of supervisors, as follows:

1. *Submittal of request for waiver or modification*. If the applicant requests such a waiver or modification as part of the application plan, the applicant shall submit its request in writing as part of the application plan, and shall demonstrate how the findings required by subsection 8.2(b)(3) would be satisfied.

2. *Timing of request*. Notwithstanding any regulation in sections 4, 5, 21, 26 or 32 establishing a procedure for considering a waiver or modification, any request for a waiver or modification shall be reviewed and considered as part of the application plan; provided that an owner within a planned development may request a waiver or modification of any requirement of sections 4, 5, 21, 26 or 32 at any time, under the procedures and requirements established therefore.

3. *Findings*. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26 or 32, a waiver or modification may be granted only if it is also found: (i) to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8; (ii) to be consistent with planned development design principles; (iii) that the waiver or modification would not adversely affect the public health, safety or general welfare; and (iv) 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.

4. *Express waiver or modification*. Each waiver and modification must be expressly granted and no waiver or modification shall be deemed to have been granted by implication.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05; Ord. 09-18(9), 10-14-09)

8.3 PLANNED DEVELOPMENT DEFINED

A planned development is a development that meets all of the following criteria at the time it is established or amended: (1) the area proposed to be rezoned or the area within the planned development district is under unified control and will be planned and developed as a whole; (2) the development conforms with one or more approved application plans; and (3) in all planned development districts other than a planned historic district, 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.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05; Ord. 09-18(9), 10-14-09)

8.4 WHERE PERMITTED

A planned development district may be established in any development area identified in the comprehensive plan, and in any rural area identified in the comprehensive plan if the district is a planned historic district containing a historic site and the purposes of the district include the restoration, preservation, conservation and enhancement of the historic site, provided that its location is suitable for the character of the proposed uses and structures.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

8.5 PROCEDURES FOR PLANNED DEVELOPMENT APPLICATIONS

8.5.1 APPLICATIONS AND DOCUMENTS TO BE SUBMITTED
(Repealed 12-5-12, effective 4-1-13)

8.5.2 PREAPPLICATION CONFERENCES
(Repealed 12-5-12, effective 4-1-13)
(Former § 8.5.2 Planning Commission Procedures Repealed 3-19-03)

8.5.3 REVIEW AND RECOMMENDATION BY THE PLANNING COMMISSION
(Repealed 12-5-12, effective 4-1-13)

8.5.4 REVIEW AND ACTION BY THE BOARD OF SUPERVISORS; EFFECT OF APPROVAL
(Repealed 12-5-12, effective 4-1-13)

8.5.5 SITE PLANS AND SUBDIVISION PLATS
(Formerly § 8.5.6)

8.5.5.1 CONTENTS OF SITE PLANS AND SUBDIVISON PLATS

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

a. *Generally*. Each site plan for a planned development shall comply with section 32 of this chapter, subject to the waiver or modification of any such regulation pursuant to section 8.2(b). Each subdivision plat for a planned development shall comply with chapter 14 subject to the waiver, variation or substitution of any such regulation pursuant to section 14-237.

b. *Within the neighborhood model zoning district*. In addition to the requirements of subsection (a), each site plan or subdivision plat for a planned development within the neighborhood model zoning district shall pertain to a minimum area of one block and shall include a phasing plan, and each site plan shall include building elevations for all new or modified structures.

(§ 8.5.6.1, 12-10-80; 9-9-92; § 8.5.5.1, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

8.5.5.2 REVIEW OF SITE PLANS AND SUBDIVISION PLATS

Each preliminary and final site plan and subdivision plat for a planned development shall be reviewed for compliance with the applicable regulations, as follows:

a. *Planned development districts established on or before December 10, 1980*. Each preliminary and final site plan and subdivision plat within a planned development district established on or before December 10, 1980 shall be reviewed for compliance with the applicable regulations when the site plan or subdivision plat is under county review; provided that, at the option of the developer or subdivider, each preliminary and final site plan and subdivision plat may be reviewed for compliance with the applicable regulations in effect when the planned development was approved if the developer or subdivider establishes a vested right as provided in Virginia Code §§ 15.2-2296 *et seq*. or 15.2-2307 to develop under the previously approved planned development district.

b. *Planned development districts established after December 10, 1980*. Each preliminary and final site plan and subdivision plat within a planned development district established after December 10, 1980 shall be reviewed for compliance with the applicable regulations in effect when the planned development district was established or, at the option of the developer or subdivider, in effect when the site plan or subdivision plat is under county review; subject to the following:

1. *Election to comply with regulations in effect when district established; exception for certain current subjects of regulation unless vested rights established*. If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance

with the applicable regulations in effect when the planned development district was established, all of the following subjects of regulation in effect when the site plan or subdivision plat is under county review shall apply unless vested rights are established under Virginia Code §§ 15.2-2296 *et seq*. or 15.2-2307: (i) entrance corridor overlay district (section 30.6); (ii) flood hazard overlay district (section 30.3); (iii) landscaping and screening (section 32.7.9); (iv) outdoor lighting (section 4.17); (v) parking (section 4.12); and (vi) signs (section 4.15). If rights are determined to have vested, the regulations for these six subjects in effect when rights vested shall apply. For the purposes of this subsection 8.5.5.2(b), an application plan approved on and after March 19, 2003 that complies with the requirements of an application plan under section 33.4, or a prior version thereof in effect on and after March 19, 2003, is a significant governmental act within the meaning of Virginia Code § 15.2-2307.

2. *Election to comply with regulations in effect when district established; election to comply with certain current subjects of regulation*. If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, the developer or subdivider may also elect to comply with one or more of the subjects of regulation listed in subsection 8.5.5.2(b)(1) in effect when the site plan or subdivision plat is under county review instead of with the corresponding regulations in effect when the planned development district was established.

c. *Review for compliance and conformance*. A site plan or subdivision plat shall be reviewed to determine whether it complies with the applicable regulations and other requirements of law, and whether it conforms to the application plan, as follows:

1. *Zoning administrator*. The zoning administrator shall determine whether a site plan or subdivision plat complies with the applicable regulations. In addition, the zoning administrator, after consultation with the director of planning, shall determine whether the proposed permitted uses comply with the applicable regulations and, in doing so, may permit as a use by right a use that is not expressly classified in this chapter if the zoning administrator further determines that the use is similar in general character to the uses permitted by right in the district or by the code of development and is similar in terms of locational requirements, operational characteristics, visual impacts, and traffic, noise and odor generation.

2. *Director of planning*. The director of planning shall determine whether a site plan or subdivision plat conforms to the application plan. In determining conformity, the director shall determine whether the central features or major elements within the development are in the same location as shown on the application plan and if the buildings, parking, streets, blocks, paths and other design elements are of the same general character, scope and scale as shown on the application plan.

3. *County engineer*. The county engineer shall determine whether an erosion and sediment control plan, grading plan, stormwater management plan, road or street plan, and mitigation plan conform with the concept grading, stormwater management, streets, and mitigation shown on the application plan.

d. *Applicable regulations defined*. For the purposes of this section 8.5.5.2, the term "applicable regulations" means, as appropriate and applicable, all zoning regulations, all subdivision regulations, the application plan (except for those elements authorized to be shown at a conceptual or general level), including those plans formerly referred to as general development plans, conditions of approval, accepted proffers, the code of development, special use permits, variances, and waivers, modifications and variations.

e. *Applicability of chapter 17*. Each preliminary and final site plan and subdivision plat within a planned development district shall be reviewed for compliance with chapter 17 of the Code in

effect when the site plan or subdivision plat is under county review, regardless of when the planned development was established or whether the developer or subdivider elects, or establishes vested rights, under subsections 8.5.5.2(a) and (b) to proceed with review under the applicable regulations in effect when the planned development was approved.

f. *Vested rights not impaired*. Nothing in this section shall be construed as authorizing the impairment of a vested right that may be established under Virginia Code §§ 15.2-2261(C), 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2307.

(§ 8.5.6.2, 12-10-80; 9-9-92; § 8.5.5.2, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09; Ord. 13-18(1), 4-3-13)

8.5.5.3 VARIATIONS FROM APPROVED PLANS, CODES, AND STANDARDS OF DEVELOPMENTS

The director of planning may allow a site plan or subdivision plat for a planned development to vary from an approved application plan, standard of development and, also, in the case of a neighborhood model district, a code of development, as provided herein:

a. The director of planning is authorized to grant a variation from the following provisions of an approved plan, code or standard:

1. Minor changes to yard requirements, build-to lines or ranges, 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;

5. Minor changes to street design and street location, subject to a recommendation for approval by the county engineer; and

6. Minor changes to the design and location of stormwater management facilities, minor land disturbance including disturbance within conservation areas, and mitigation, all subject to a recommendation for approval by the county engineer.

b. The applicant shall submit a written request for a variation to the director of planning. 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 director may reject a request that fails to include the required information.

c. The director of planning 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 special use permit; and (5) is in general accord with the purpose and intent of the approved application.

d. The director of planning may require that the applicant provide an updated application plan and, in the case of changes to a code of development, a complete amended code of development, reflecting the approved variation and the date of the variation. If the director requires an updated application plan or code of development, the granting of the variation shall be conditional upon the applicant providing the plan or code within thirty (30) days after approval of the variation and a determination by the director that the plan or code were revised to correctly reflect the granted variation.

e. Any variation not expressly provided for herein may be accomplished by zoning map amendment.

(§ 8.5.6.3, 12-10-80; 9-9-92; § 8.5.5.3, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

8.5.5.4 BUILDING PERMITS AND GRADING PERMITS

Building permits and grading 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. A grading permit may be issued for site preparation grading associated with an approved planned development if the erosion and sediment control plan measures, disturbed area and grading are in conformity with the concept grading and measures shown on the application plan as determined by the county engineer, after consultation with the director of planning.

c. If, after consultation with the director of planning, the county engineer finds that there is not enough detail on the application plan to assure that the proposed grading and other measures are consistent with the application plan, a grading permit shall not be issued until the final site plan is approved, or the final subdivision plat is tentatively approved.

d. Within each neighborhood model district, the department of community development shall review each building permit application or modification to determine whether the proposed structure conforms with the architectural and landscape standards in the approved code of development.

(§ 8.5.6.4, 12-10-80; 9-9-92; § 8.5.5.4, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

8.5.5.5 SITE PLAN AND SUBDIVISON PLAT REQUIREMENTS WHEN THERE IS NO APPLICATION PLAN

Site plans and subdivision plats within a planned development district for which an application plan was not approved shall be subject to the following:

a. *No valid site plan or subdivision plat at time district established*. If a planned development district was established before an application plan was required by section 8 to be approved as part of the zoning map amendment and neither a final site plan or subdivision plat pertaining to the entirety of the planned development district was valid at the time of the zoning map amendment nor was approved in conjunction with the approval of the zoning map amendment, then neither a site plan nor a subdivision plat shall be approved for any lands within the district unless and until an application plan and all other documents required by section 8.5 are submitted by the owner and are approved as provided therein.

b. *Valid site plan or subdivision plat at time district established*. If a planned development district was established before an application plan was required by section 8 to be approved as part of the zoning map amendment but a final site plan or subdivision plat pertaining to the entirety of the planned development district was valid at the time of the zoning map amendment or was approved in conjunction with the approval of the zoning map amendment, the valid or approved site plan or subdivision plat shall be deemed to be the application plan, and the site plan or subdivision plat shall be reviewed as provided in section 8.5.5.2. (Amended 7-16-86)

(§ 8.5.6.5, 12-10-80; 9-9-92; § 8.5.5.5, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

8.6 (Repealed 12-5-12 effective 4-1-13)