

Chapter 14.04

Planned Unit Development (PUD)

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14.04.010 Planned Unit Development (PUD) Designation, Purpose, Objectives, and Authority.

A. The purpose of planned unit development (PUD) is to encourage innovation and flexibility in the development of land so as to promote variety in the type, design and layout of buildings; improve the integration, character and quality of land uses; promote the more efficient use of land and infrastructure while achieving compatibility of land uses; achieve economy in the delivery and maintenance of public services, and promote the preservation of open space and natural and scenic areas.

B. PUD zoning or overlay designation may be applied for with regard to any contiguous land (disregarding intervening public streets or easements or other rights-of-way) located within any zone district. No land shall be zoned PUD without the written consent of the landowner whose properties are included within the PUD. The decision to approve an area for PUD zoning or treatment shall at all times rest within the discretion of the Board of Trustees, and an application for PUD designation shall be denied where the particular proposal will not adequately satisfy or implement the purposes of this Chapter.

C. This Chapter 14.04 is enacted pursuant to the authority contained in the Planned Unit Development Act of 1972, Sections 24-67-101 *et. seq.*, C.R.S.

14.04.020 Zoning Classification. PUD constitutes a zoning classification and is established by rezoning or overlaying the designation upon land within an existing or newly created zone district. Approval of a PUD shall be illustrated and its land area defined on the Town's Official Zone District Map. When an area that is already zoned is approved for a PUD overlay, e.g., "RZD-PUD," the underlying zone district's regulations shall remain intact; and in the event the PUD is not completed or is terminated, the underlying zone district regulations shall apply to and govern land uses and development in the subject area.

14.04.030 PUD Plan--Conformity with Master Plan. No land shall be designated PUD in the absence of a PUD plan, which plan shall set forth the written and graphic materials as described in this Chapter. All PUD plans must conform to and be consistent with the Town's Master Plan.

14.04.040 Subdivision and Zoning Regulations Applicable--PUD Plan. The approval of a PUD overlay/zoning shall be inseparable from a PUD plan, and a PUD shall not be established or approved without the simultaneous approval of a PUD plan and PUD control guide. The approved PUD overlay/zoning and the approved PUD plan/control guide shall together establish and govern the land uses and development allowed within the PUD and shall supersede any other underlying zone district regulations.

14.04.050 Subdivision Provisions Modification Authorized. It is recognized that the uniqueness of each proposal for a PUD requires that the specifications, standards and requirements for various facilities, including but not limited to streets, highways, alleys, utilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, storm drainage, water supply and distribution and sewage collection and treatment, may be subject to modification from the specifications, standards and requirements established in Title 14 of the DeBeque Municipal Code for like uses in other zone districts. The Board of Trustees may, therefore, either at the time of zoning as a PUD or upon final platting under the Town's subdivision regulations, as requested by the applicant, waive or modify the specifications, standards and requirements, which would be otherwise applicable to the proposed development. The Town's building codes may not be modified as part of a PUD.

14.04.060 Compatibility of Land Use Elements. It is recognized that certain individual land uses, regardless of their adherence to all the design elements provided for in this Chapter, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of the relationship and compatibility of the individual elements of the plan, and no PUD shall be approved which contains incompatible elements.

14.04.070 Overview of PUD Procedure. Approval of a PUD shall be subject to the submission of a full and complete application, the payment of all review and approval fees, preliminary review by the Planning and Zoning Commission, and final approval by written ordinance by the Board of Trustees after a public hearing. All applicants for a PUD intending to subdivide or resubdivide land as part of the PUD plan shall concurrently submit and pursue a subdivision application as provided for in this Title. Review and submission requirements for a PUD incorporating the subdivision and resubdivision of land shall be construed and applied together with the subdivision processing requirements. Whenever the PUD and subdivision application procedures or requirements overlap, the overlapping procedures or requirements shall not be applied cumulatively, and the procedure or requirement pertinent to the PUD application shall supersede the subdivision procedure or requirement.

14.04.080 Site Plan Criteria; General Requirements. The PUD shall meet the following site plan criteria, depicted on a site plan furnished by the applicant, unless the applicant can demonstrate that one (1) or more of them is not applicable or that another practical solution has been otherwise achieved:

A. The PUD shall have an appropriate relationship to the surrounding area, with adverse effects on the surrounding area being minimized.

B. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience and access. Private internal streets may be permitted, provided that adequate access for police, fire and emergency protection is maintained; streets are named in a logical fashion to avoid confusion; and provisions for using and maintaining such streets are imposed upon the private users and approved by the Board of Trustees. Bicycle and pedestrian traffic shall be provided for if appropriate for the land use.

C. The PUD shall provide parking areas adequate in terms of location, area, circulation, safety, convenience, separation, appropriately designed downcast lighting and screening.

D. The PUD shall provide common open space adequate in terms of location, area and type of the common open space, and in terms of the uses permitted in the PUD. The PUD shall strive for optimum preservation of the natural features of the terrain.

E. The PUD shall provide for variety in housing types and densities, mix of uses, other facilities and common open space.

F. The PUD shall provide adequate privacy between dwelling units.

G. The PUD shall provide non-motorized access ways adequate in terms of safety, separation, convenience, access to points of destination and attractiveness.

14.04.090 Off-Street Parking. The number of off-street parking spaces for each use in a PUD shall be determined by the Board of Trustees through consideration of the following factors:

A. Estimated number of motor vehicle trips per day and vehicles used by occupants of dwellings or others in the PUD;

B. Temporary and permanent parking needs of non-dwelling uses;

C. Varying time periods of use whenever joint use of common parking areas is proposed;
and

D. Parking and storage needs for recreational vehicles, including, but not necessarily limited to, camper shells, boats, travel trailers and snowmobiles.

14.04.100 Building Height. The maximum height of buildings may be increased above the maximum permitted for like buildings in other zone districts (not to exceed thirty-five feet[35']) by reference to the following characteristics of the proposed building:

A. Its geographic location;

B. The probable effect on surrounding slopes;

C. Unreasonable adverse visual effect on adjacent sites or other areas in the vicinity;

D. Potential problems for adjacent sites caused by shadows, loss of air circulation or loss of view;

E. Influence on the general vicinity, with regard to extreme contrast, vistas and open space;

D. Uses within the proposed building; and

E. Fire protection needs.

14.04.110 Minimum Land Area. The minimum size of land that may comprise a PUD is

one (1) acre.

14.04.120 Lot Area and Coverage, Setbacks and Clustering. The minimum lot areas and the minimum setback restrictions may be decreased below and the maximum lot coverages may be increased above those applicable to like lots and buildings in other zone districts to accommodate specific building types with unusual orientation on the lot or relationship between buildings. The averaging of lot areas shall be permitted to provide flexibility in design and to relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with useable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types, which are not spaced individually on their own lots but share common side walls, combined service facilities or similar architectural innovations, whether or not providing for separate ownership of land and buildings. The architectural style of buildings shall not constitute the only basis for denying approval of a PUD application.

14.04.130 Residential Density. The overall average residential density shall be no greater than the maximum density for the particular area in the land use section of the Town's Master Plan. The overall average residential density shall be calculated by summing the number of residential dwelling units planned within the boundary of the PUD and dividing by the total gross areas expressed in acres within the boundary of the PUD. Averaging and transferring of densities within the PUD shall be allowed upon a showing of conformance to the purpose of this Chapter through appropriate utilization of the area within the PUD to achieve high standards of design and habitability. The density of dwelling units as permitted herein, in any particular area, may be greater than the maximum permitted for a like use in other zone districts as a result of density transfer based on average density across the site.

14.04.140 Permitted Uses.

A. All permitted or special review uses in any zone district may be allowed in a PUD subject to the provisions of 14.04.060. Without limiting the generality of the foregoing, the following uses, separate or in combination, may be permitted in a PUD:

1. Single-family and multi-family residential dwelling units in detached, semi-detached or attached groups, or attached, clustered or multistoried structures, or any combination thereof;
2. Sale or rental of goods or services;
3. Recreational facilities;
4. Public and private offices;

5. Mobile and manufactured home parks and subdivisions;
6. Convention facilities;
7. Restaurants;
8. Lodging places, including motels, hotels, lodges; bed and breakfast establishments and dormitories;
9. Schools and other educational institutions;
10. Churches and hospitals;
11. Business and commercial uses;
12. Industrial uses; and
13. Any other uses shown to be appropriate.

B. The uses that shall be permitted in any particular PUD shall be limited to those specified in the PUD plan and control guide and the ordinance approving the PUD.

14.04.150 Common Open Space.

A. A minimum of twenty-five percent (25%) of the total area within the boundary of any PUD shall be devoted to usable and accessible common open space; provided, however, that the Board of Trustees may reduce such requirement if it finds that such decrease is warranted by the design of, and the amenities and features incorporated into, the plan and that the needs of the occupants of the PUD for common open space can otherwise be met in the proposed PUD and the surrounding area.

B. The common open space of a PUD may be owned and maintained by the property owners within the PUD, or by an organization chosen therefrom or thereby. A property owners association shall be created by the applicant if the PUD is subject to the Colorado Common Interest Ownership Act, Sections 38-33.3-101 *et. seq.*, C.R.S. In the event that the organization established to own and maintain common open space, or any successor organization, at any time after establishment of the PUD, fails to maintain the common open space in reasonable order and condition in accordance with the plan, the Board of Trustees may serve written notice upon such organization or upon the residents of the PUD, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing, the Board of Trustees may modify the terms of the original notice as to deficiencies

and may give an extension of time within which they shall be cured.

C. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within the thirty (30) days or any extension granted, the Town, in order to preserve the taxable values of the properties within the PUD and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for a period of one (1) year. The entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of the year, the Board of Trustees shall, upon its initiative or upon the written request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the PUD, to be held by the Board of Trustees, at which hearing such organization or the residents of the PUD shall show cause why such maintenance by the Town shall not, at the election of the Board of Trustees, continue for a succeeding year. If the Board of Trustees determines that such organization is ready and able to maintain the common open space in reasonable condition, the Town shall cease to maintain such common open space at the end of the year. If the Board of Trustees determines that such organization is not ready and able to maintain the common open space in a reasonable condition, the Town may, in its discretion, continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

D. The cost of such maintenance by the Town shall include its actual cost, plus overhead, plus an administrative fee of twenty-five percent (25%) of such costs, and shall be paid by the owners of properties within the PUD who have a right of enjoyment of the common open space, and any assessments unpaid for a period of sixty (60) days shall become a tax lien on the properties. The Board of Trustees shall file a notice of such lien in the office of the Mesa County Clerk and Recorder upon the properties affected by such lien within the PUD and shall certify such unpaid assessments to the Board of County Commissioners and the County Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.

14.04.160 Application for PUD - PUD Plan.

A. An applicant shall process his or her application for PUD concurrently with any application for subdivision platting under town ordinances as provided in Chapter 14.06: Subdivision Regulations. An applicant is advised to schedule a preapplication discussion with the Planning and Zoning Commission.

B. The plan shall show generally within the PUD where each type of use will be located and shall indicate the total acreage, which will be devoted to each use. The precise location of each use and the location of lots, blocks or other parcels within each area devoted to each use shall be shown as that area is thereafter subdivided and platted in accordance with Title 14 of the De Beque Municipal Code.

C. The permitted uses, special review uses, uses as allowed by 14.03.170, 14.03.180, 14.03.200, the minimum lot area, maximum lot coverage, minimum setbacks, maximum height of buildings and all other use and occupancy restrictions applicable to any area zoned as PUD, shall only be those set forth in the PUD plan/control guide as approved by the Board of Trustees at the time such area is so zoned.

D. The applicant shall initiate any request for PUD zoning in writing by completing the Town's application form, and shall include with his or her application the following:

1. A legal description of the area, a statement of the ownership of all interests in the property to be included in the PUD, the written consent of all of the owners and, upon request of the Board of Trustees, evidence of title in such quality as is acceptable to the Board of Trustees;

2. A plan indicating the broad concept of the proposed development. Such plan shall indicate:

a. The maximum number of dwelling units proposed within the overall area;

b. The minimum acreage, which will be dedicated to common open space;

c. The type of uses proposed and the acreage devoted to each use;

d. Major internal vehicular traffic circulation systems;

e. The acreage which will be dedicated for school sites or other public uses;

f. The general nature and location of commercial and industrial uses, if any, to be located in the PUD;

g. Provision for water, sewer, telephone, electricity, gas, cable television and other utilities;

h. Other restrictions proposed by the applicant such as building setbacks, height limits, access requirements and grade or slope restrictions to be applied to particular areas; and

i. How the common open space will be owned and maintained.

3. A regional location map, on a scale of one inch (1") equaling not more than four hundred feet (400'), illustrating site boundaries, acreage, existing structures and

existing zoning.

4. A map, on a scale of one inch (1") equaling not more than one hundred feet (100'), illustrating site boundaries, acreage, existing structures and existing zoning.

5. A site plan map, on a scale of one inch (1") equaling not more than fifty feet (50'), depicting site plan criteria which the applicant is required to meet in 14.07.030 and 14.07.040.

6. A topographic map of the site, showing at a scale of one inch (1") equaling not more than one hundred feet (100'), with at least two foot (2') contour intervals for slopes, major vegetation elements, streams, rivers, ditches and areas subject to one hundred year flooding.

7. Conceptual landscaping plan.

8. Conceptual bicycle and pedestrian trail plan (if applicable).

9. Draft PUD control guide listing all permitted and special review land uses; any occupancy restrictions; maximum residential densities (if applicable); maximum height, elevation, dimensions and square footage of building(s) within the PUD; net and gross acreage for each type of proposed use; requirements concerning lot dimensions, lot area, street frontage, setback limitations, height limitations, maximum lot coverages, fences, landscaping, signage, parking requirements; and any other use or occupancy restrictions.

10. Any proposed declaration of protective covenants, and proposed articles of incorporation and bylaws for any homeowners or property owners associations that will be formed to maintain the common properties. Such declaration, articles of incorporation and bylaws shall be drafted or approved by a licensed attorney selected by the applicant and shall comply with the requirements of CCIOA, if applicable. The applicant shall provide the Town with written proof that such documents were drafted or approved by a licensed attorney. The applicant may impose additional covenants, conditions and restrictions on any particular area in connection with the platting of such areas.

11. The written application shall additionally contain the following information:

a. An explanation of the objectives to be achieved by the PUD;

b. A development schedule indicating the approximate dates when construction of the various stages or phases of the PUD can be expected to begin and be completed;

c. Copies of any special easements;

d. A list of the owners of properties located within three hundred feet (300') of the boundaries of the PUD and their addresses (the property owners shall be notified by mail of the PUD application);

e. A statement and findings by a licensed engineer, which shall provide evidence of the following as adequate to service the PUD:

i. The proposed water distribution system,

ii. The proposed method of sewage collection,

iii. The general manner in which storm drainage will be handled,
and

iv. The general manner in which provision will be made for any potential natural hazards in the area such as avalanche areas, landslide areas, floodplain areas and unstable soils;

f. Easements showing vested legal access for ingress and egress, if applicable;

g. Evidence that the PUD has been designed with consideration of the natural environment of the site and the surrounding area and does not unreasonably destroy or displace wildlife, natural vegetation or unique natural or historic features;

h. A statement of financial capability to timely and fully implement and complete the PUD.

i. Provisions for snow removal; and

j. A discussion of the major internal vehicular system and its relation to the existing system of streets, roads or highways.

E. The applicant may submit any other information or exhibits which he or she deems pertinent in evaluating his or her proposed PUD.

14.04.170 PUD/Subdivision Plat Required. No PUD shall be approved absent the preparation and approval of a PUD/subdivision plat prepared in accordance with the plat requirements contained in this Title, and no development activity may occur within a PUD prior to the proper execution and recordation of the PUD/subdivision plat in the real property records of Mesa County.

14.04.180 Public Hearings. All public hearings required under this Chapter may be simultaneously noticed and conducted with any other public hearing as required or authorized under the Town's Subdivision Regulations.

14.04.190 Development Schedule.

A. The applicant must begin development of the PUD within three (3) years from the time of its final approval by the Board of Trustees; provided, however, that the PUD may be developed in stages or phases. The applicant must complete the development of each stage or phase of the PUD as a whole substantially in conformity with the development schedule approved by the Board of Trustees.

B. If the applicant does not comply with the time limits imposed by subsection (A) above, the Board of Trustees shall review the PUD and may revoke approval for the uncompleted portion of the PUD, require that the PUD be amended, or extend the time for completion of the PUD.

C. Each stage a phase within a PUD shall be so planned and so related to existing surroundings and available facilities and services that failure to proceed to a subsequent stage will not have a substantial adverse impact on the PUD or its surroundings.

D. If a PUD contains nonresidential uses, they may be constructed in advance of residential uses if the Board of Trustees finds that such phasing is consistent with sound principles of orderly development and will have no substantial adverse effect on the quality or character of the PUD.

14.04.200 Planning and Zoning Commission-Review.

A. The Planning and Zoning Commission is responsible for initially investigating all PUD plans and accompanying information in detail to ensure conformity with the provisions of this Chapter. The Commission shall recommend approval of the PUD application, disapproval or approval upon conditions reasonably related and necessary to preserve the intent and purposes of this Chapter. The only reason for withholding a PUD application from submission to the Board of Trustees shall be a failure of the application to conform to the requirements of this Chapter.

B. The Planning Commission shall, upon rendering its decision on a PUD application, promptly submit the application along with its conclusions, findings, recommendations and conditions to the Board of Trustees. The findings, conclusions, recommendations and conditions of the Commission shall be advisory only and non-binding on the Board of Trustees.

14.04.210 PUD Approval Procedure.

A. A completed PUD application conforming to the requirements of this Chapter shall be submitted to the Town Planner along with the appropriate application fee. No application shall be accepted, processed or scheduled for review unless and until it is complete and all necessary fees have been paid. The application shall be accompanied by not less than twenty (20) copies. In the event the Town must retain outside professional services to process or evaluate the application, the applicant shall bear the costs for same, inclusive of engineering, planning and legal fees.

B. After a PUD application has been determined to be complete and all fees have been paid, it shall promptly be referred to the Planning and Zoning Commission. The Commission shall review and evaluate the application at a public meeting conducted not later than sixty (60) days from the date the application was deemed complete, or as soon thereafter as can be accommodated. The Commission may continue the public meeting for up to forty (40) days in order to allow for the gathering and submission of additional information deemed necessary to complete the Commission's review. The Commission shall forward its recommendations and/or findings on the application in writing to the Board of Trustees after it has concluded its deliberations. The Commission may recommend denial of the application, approval or approval subject to conditions.

C. The Board of Trustees shall consider the PUD application at a noticed public hearing conducted not less than thirty (30) days after the date upon which the Board receives the recommendations and report of the Planning and Zoning Commission, or as soon thereafter as can be accommodated. Written notice of the subject matter and the time and place of the hearing shall be provided in accordance with the notice requirements for a site-specific zoning map amendment contained in Section 14.01.100 of the Town of De Beque Land Use Code. The hearing may be continued for up to forty (40) days to allow for the gathering and submission of additional information deemed necessary to complete the Board's review, inclusive of referring the matter, or any particular item associated therewith, back to the Planning and Zoning Commission for additional study and recommendation. At the conclusion of the hearing and after discussion and deliberation, the Board shall vote to approve, approve with conditions or deny the application, and shall thereafter direct staff to prepare a written ordinance with supporting findings reflecting the Board's decision for the Board's review and approval at its next regularly scheduled meeting. Said ordinance shall incorporate the PUD plan and control guide as approved by the Board of Trustees.

D. The time limits as set forth in this Section may be waived or extended upon the written request or consent of the applicant.

E. The burden to demonstrate the application's compliance with all of the applicable review criteria shall rest with the applicant.

F. No PUD designation shall be approved absent the applicant's full and timely payment of all fees assessed under this Chapter.

14.04.220 Form of PUD Approval. All decisions of the Board of Trustees approving a PUD shall be in the form of a written ordinance and contain, at a minimum, the information set forth below. No building permit may issue and no development activity may commence within the PUD area until the PUD approval and the plat have been duly executed and recorded along with any necessary PUD agreement.

A. The density allocated to the property by type and number of units;

B. The approved uses on each development parcel or use areas within the PUD site;

C. Approved densities in total numbers of units for each development parcel identified;

D. Approved density transfers from one (1) parcel to another, if any;

E. The phasing and general timetable of development that shall permit the logical and efficient provision of municipal services;

F. Specific conditions applied to the development of any parcels that, by their nature, are subject to special development constraints; and

G. variations in any dimensional limitations expressed as either an allowable maximum or a specific maximum.

14.04.230 PUD Agreement. For any PUD in which variances from underlying zoning requirements are granted, or for which public infrastructure or improvements are required, a written PUD agreement setting forth same and including all specific terms and conditions of approval shall be prepared and submitted by the applicant to the Town Planner for approval by the Board of Trustees by ordinance. The PUD agreement shall be recorded in the real property records of the County Clerk and Recorder along with the PUD plat/map, and shall run and be a burden upon all lands within the PUD. The agreement shall also specify the amounts and type of financial security that must be posted by the PUD developer to ensure the timely and satisfactory installation of all public infrastructure and other required improvements, inclusive of landscaping for common or public areas associated with the PUD. Financial security shall be posted prior to the issuance of any building permit or development activity within the PUD area and shall be in an amount not less than

one hundred ten percent (110%) of the estimated cost of the completion of all improvements; and may be provided by letter of credit, performance bond, cash escrow or other financial instrument as deemed acceptable by the Town. Upon the complete installation, inspection and acceptance of the improvements and/or infrastructure, all but ten percent (10%) of the actual cost of the improvements shall be released, which ten percent (10%) shall continue to remain posted as security to ensure that all improvements and infrastructure remain free of defects for a period of two (2) years after preliminary acceptance of the same by the Town. The Town shall be entitled to draw on any posted financial security in order to complete, correct or repair any PUD infrastructure or improvement as called for in the PUD approval as set forth in Section 14.01.160(K) of this Title.

14.04.240 PUD Plan Enforcement-Modifications.

A. Development of the area within a PUD shall be limited to the uses, densities, configuration and terms, elements and conditions contained within the approved PUD plan/control guide and development agreement, and may be enforced by the Town at law or equity. The configuration and mix of the units may be modified as provided for in this Title or in the PUD agreement, but no portion of the density allocation may be transferred to land not included in the PUD plan.

B. In addition to any and all other remedies as available to the Town under law, the Town Administrator may serve a written notice on the PUD developer, or any landowner within the PUD, to appear before the Board of Trustees when reasonable grounds exist to believe that the PUD plan/control guide, or any part thereof, is not being adhered to. The Board of Trustees shall conduct a public hearing to determine the existence of any alleged failure or violation of the PUD approval, and may enter orders directing the correction of same.

C. All provisions of the PUD plan/control guide as finally approved run in favor of the residents, occupants and owners of the PUD, but only to the extent expressly provided in the plan/control guide and in accordance with the terms of the plan/control guide; and to that extent, the provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by such residents, occupants or owners acting individually, jointly or through an organization designated in the plan to act on their behalf.

D. All provisions of the PUD plan/control guide authorized to be enforced by the Town may be modified, removed or released by the Town subject to the following:

1. No modification, removal or release of the provisions of the PUD plan/control guide by the Town shall affect the rights of the residents, occupants and owners of the PUD to maintain and enforce those provisions in law or in equity; and

2. No substantial modification removal or release of the provisions of a PUD plan/control guide by the Town shall be permitted except upon a finding by the Board of Trustees, following a public hearing upon notice as required by this Chapter, that the modification, removal or release is:

- a. Consistent with the efficient development and preservation of the entire PUD,
- b. Does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across the street from the PUD or the public interest, and
- c. Is not granted solely to can for a special benefit upon any person.

E. Residents and owners of land in the PUD, may to the extent and in the manner expressly authorized by the provisions of the PUD plan/control guide, modify, remove or release their rights to enforce the provisions of the plan; but no such action shall affect the right of the Town to enforce the provisions of the plan.

F. An insubstantial amendment to an approved final PUD plan may be authorized by the Town Administrator. However, insubstantial amendments may only be approved if they promote the terms, purposes and conditions of the original PUD plan and approval. The following shall NOT be considered an insubstantial amendment:

1. A change in the use or character of the development.
2. An increase or decrease by greater than three percent (3%) in the overall coverage of structures as originally approved within the PUD.
3. Any amendment that substantially increases vehicle trip generation rates arising from the PUD, or the demand for public facilities.
4. A reduction by greater than three percent (3%) of the originally approved common or public open spaces.
5. A reduction by greater than one percent (1%) of the originally approved off-street parking or loading space.
6. A change in the alignment or reduction in the required pavement widths or rights-of-way for streets or easements.
7. An increase or decrease of greater than two percent (2%) in the originally approved gross floor area of commercial buildings.

8. An increase or decrease by greater than one percent (1%) in the originally approved residential density of the PUD.

9. Any change which is directly contrary to a condition or representation of the PUD's original approval, or which requires granting a further variation from the PUDs approved use or dimensional requirements.

G. During the review of any proposed significant amendment to the PUD, the Town may require such new conditions of approval as are necessary to ensure that the development will be compatible with the current community standards and regulations. This shall include, but not be limited to, applying the portions of the PUD which have not obtained building permits, or are subject to the proposed amendment, any new community policies or regulations which have been implemented since the PUD was originally approved. An applicant may withdraw a proposed amendment at any time during the review process.

(Ord. 324, §1(part), 2006)