



Livingston Zoning Commission Agenda

A meeting of the Livingston Zoning Commission has been scheduled for June 13, 2023 at 5:30 PM in the Community Room of the City/County Building at 414 E. Callender Street. This meeting will be facilitated by Vice-Chair Deborah Monaghan.

A virtual option will also be available:

Join Zoom Meeting

<https://us02web.zoom.us/j/85115544491?pwd=NWFkdVmRlQkFma3BLY0NnWmd3am5pUT09>

Meeting ID: 851 1554 4491

Passcode: 375329

Call in: (669) 900-9128

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Minutes**
 - A. Approve April 11, 2023 minutes (no May 2023 meeting was held)
- 4. General Public Comments**
- 5. New Business**
 - A. Review and Recommendation of Chapter 30 PUD Ordinance
- 6. Old Business**
- 7. Board Comments**
- 8. Adjournment**

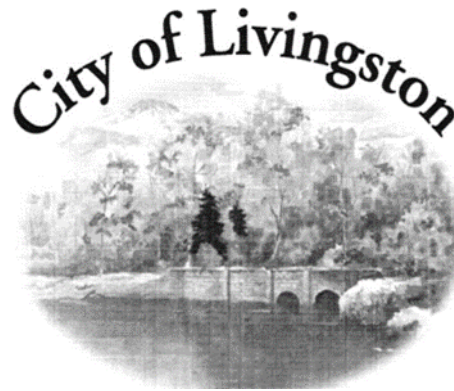
File Attachments for Item:

A. Staff Rec and DRAFT PUD Ordinance

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Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

June 13, 2023

ZONING COMMISSION STAFF REPORT
CHAPTER 30 ZONING CODE – PLANNED UNIT DEVELOPMENT ORDINANCE

Background

Planning staff has drafted a Planned Unit Development (PUD) Ordinance to be included in Chapter 30 of the City’s Zoning Code. The purpose of a PUD Ordinance is to allow flexibility from design standards and density requirements from the existing zoning in a defined area of development. The Ordinance will be added to the Code as a new standalone section of Chapter 30.

The Planned Unit Development is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD zoning district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.

To achieve the stated intent, a project approved as a PUD must further the following objectives:

1. Preserve natural and cultural resources
2. Provide open space and recreational areas beyond the minimum subdivision requirements
3. Promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets
4. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
5. Promote affordable/ workforce housing
6. Support the adopted City of Livingston Growth Policy

The PUD Ordinance is being introduced into the City’s zoning code as recommended by the 2021 Growth Policy.

Proposed Findings of Fact

The proposed PUD Ordinance is attached (Attachment A). As this ordinance will create a standalone section of code rather than update an existing part of the Code, there is no redlined version of existing code provided for review.

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304):

(1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Staff Comments:

- The proposed text amendment supports the recommendation in the Growth Policy to create a PUD Ordinance and, therefore, directly supports the goals and strategies of the Growth Policy.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- Staff does not anticipate the proposed PUD Ordinance will impact the threat of fire or other danger to the public.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation. Under the new ordinance, developers may receive incentives based on the provision of certain public benefits. Staff finds that with careful consideration of each unique PUD application by the Zoning Commission, Planning Board and the City Commission, the proposed text amendment will not adversely impact the health, safety or general welfare of the public.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- A project reviewed as a PUD is required to provide a public benefit, such as reducing traffic, clustering development to concentrate public infrastructure connections within the development, and/or provide additional parkland over the minimum required by Subdivision regulations. Therefore, it is not anticipated the proposed text amendment will impact the adequate provision of transportation, water, sewerage, schools, parks or other public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- Although the ordinance allows for a moderate height bonus as an incentive to developers in the R-II (Medium Density Residential) District, staff does not anticipate this will impact the reasonable provision of adequate light or air in the new development.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- A stated objective of the PUD Ordinance is to reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity. Reduced vehicular trips is anticipated to have a beneficial impact on the transportation network.

(c) promotion of compatible urban growth;

Staff Comments:

- Although developer incentives are possible, density and height bonuses are tied to the existing (base) zoning district requirements and are awarded as a percentage increase from what is allowed the base zoning district. The PUD Ordinance will promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets, which is compatible with the type of urban development recommended in the Growth Policy.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- The increased flexibility of design allowed by the PUD Ordinance will help ensure approved uses in the new development are uniquely suited for the area where the PUD is located. Because each PUD proposal will be site specific and context sensitive, it is not anticipated that the proposed text amendment will adversely impact the character of any zoning district nor its suitability for particular uses.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- The proposed PUD Ordinance will encourage the most appropriate use of land in the City of Livingston as each proposed PUD will be unique and tailored for the site where the PUD is located. Staff does not anticipate development approved as a PUD will adversely impact building values in the City.

Staff Recommendation

Staff believes the proposed PUD Ordinance complies with the requirements of State Statute and it directly supports the goals, objectives and strategies identified in the Growth Policy. Staff recommends that the Commission adopt the PUD Ordinance as proposed.

Attachments

- A. Draft PUD Ordinance

ATTACHMENT A: Draft PUD Ordinance

CHAPTER 30
SECTION 30.XX PLANNED UNIT DEVELOPMENT (PUD)

Commented [JS1]: NOTE: format of Final PUD Ordinance will be revised for consistency with Livingston Code

Intent

The Planned Unit Development is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.

To achieve the stated intent, a PUD shall further the following objectives:

1. Preserve natural and cultural resources
2. Provide open space and recreational areas beyond the minimum subdivision requirements
3. Promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets
4. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
5. Promote affordable/ workforce housing
6. Support the adopted City of Livingston Growth Policy

The proposed PUD must be a minimum of 1 acre in size and all land must be under a single ownership/ entity at time of application submittal. All PUDs must include a commercial component appropriately scaled for the proposed development and with respect to the surrounding neighborhood. Commercial development within the PUD may require Site Plan Review prior to issuance of a building permit.

Developer Incentives and Public Benefit

| DEVELOPER BONUS | PUBLIC BENEFIT |
|--|---|
| 10% increase in allowed residential density | 10% deed restricted affordable/ workforce housing units (minimum 2 affordable/ workforce units) |
| Height increase for structures in R-II zoning district up to 40 feet max | 10% reduction in vehicular trips to be generated by the PUD (multi-modal transportation facilities, live/work units, other) |
| 25% Impact Fee Reduction for 1/5 of all residential units | Increase dedicated open space to 20% of PUD area; no more than half of total open space may be Type 1.a as defined Sec 28-VI-A-16.b |

** For phased PUDs, at least 5% of total affordable/ workforce housing units must be included in the first phase*
** Affordable/ Workforce units must be substantially similar in design, location and amenities as market rate units*
** Max Residential Density Bonus allowed = 25% over base zoning district*

Application Procedures

1. A Pre-application meeting is required with city staff at least 30 days prior to submittal of the PUD application.
2. Prior to submittal of the application, the applicant must notify landowners of the proposed PUD zoning within 300 feet of the PUD external boundary and provide a method by which surrounding landowners may offer comments on the proposal. All comments received must be included in the PUD application.
3. Application Submittal requirements- each application for PUD zoning shall contain the following material:
 - a. Completed City of Livingston PUD Application form; see application form for detailed submittal requirements. Where a PUD also involves a subdivision of land, it shall also meet the application requirements of the Livingston Subdivision Regulations.
 - b. All applicable fees
 - c. A listing of each deviation or class of deviation from the base zoning district and a justification for the deviation.
 - d. A listing of each deviation or class of deviation from the City's Subdivision Regulations (if a subdivision is proposed), the City's Public Works Design Standards and Specifications, and a justification for the deviation.
 - e. Project Narrative or other convincing and persuasive demonstration that the proposed PUD will implement goals and strategies of the adopted Livingston Growth Policy.
 - f. The PUD plan shall identify the existing zoning of the area within the proposed PUD district and the zoning of all parcels surrounding or immediately adjacent to the proposed PUD.
 - g. Operation and Maintenance for private facilities for common use of PUD residents as well as for facilities that will be available for use by the general public (if applicable)
 - h. For multi-phase projects where components are proposed which may not be built for many years, future phases may show conceptual street designs, proposed park and open space areas, trail concepts, proposed residential density, housing types and commercial areas. Where a multi-phased PUD involves a subdivision of land, the applicant shall submit an overall phased development preliminary plat per MCA 76-3-617.

Other information, plans and details that the city staff, Zoning Commission, Planning Board and/or City Commission may request to fully evaluate the development proposal and its impacts and conclusively demonstrate how the review criteria listed below will be met.

Review

Zoning Commission

The review procedure for PUD zoning will follow the process called out in Sec. 30.71 of the Livingston Municipal Code. Review of the proposed PUD will be based on the statutory provisions of 76-2-304, MCA and the following evaluation criteria:

1. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.

- 2. The proposed deviations from the underlying zoning requirements will not adversely affect the public and/ or the surrounding neighborhood.
- 3. Uses with varying intensities are effectively buffered, both within the PUD and between the PUD and the surrounds.

Planning Board

The Planning Board will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. Where a PUD also involves a subdivision of land, it shall follow the process called out in the Livingston Subdivision regulations (Chapter 28).

Review of the proposed PUD will be based on the following evaluation criteria:

- 1. The proposed departures from the adopted the City of Livingston Public Works Design Standards and Specifications and/ or subdivision regulations (if applicable) will not adversely affect the public and/or surrounding neighborhood.
- 2. The PUD will establish effective connections within the PUD and to the surrounding transportation network.
- 3. The size and type of parkland and open space and demonstration of its adequacy for the land use, densities and dwelling types proposed in the PUD, as well as the proposal for maintenance and conservation of these areas.
- 4. The PUD will not adversely impact the natural environment, critical wildlife and habitat, agriculture, public health and safety, and local services.

Action by the Zoning Commission

The Zoning Commission shall hold a public hearing on the application pursuant to Section 30.71. The Commission shall submit its recommendations to the City Commission regarding the PUD rezoning request based on the review criteria under XXX above. The Zoning Commission may recommend the City Commission approve or deny the application.

Action by the Planning Board

The Planning Board shall hold a public hearing on the application and submit its recommendations to the City Commission regarding the PUD based on the review criteria under XXX above. The Planning Board will review the PUD Plan and, after holding a public hearing, make a recommendation to the City Commission to approve, conditionally approve or deny the PUD.

Where a PUD involves a subdivision of land, Subdivision review will be as directed by Chapter 28 of Livingston Municipal Code. Any deviations from the Subdivision Regulations or the City of Livingston Public Works Design Standards and Specifications will only be allowed through the variance process contained in Chapter 28 of the Livingston Municipal Code.

Action by the City Commission

Upon receiving recommendations from the Zoning Commission and Planning Board, the City Commission will review and approve, approve with conditions, or deny the PUD application and any applicable Preliminary Plat. The City Commission may conduct the first reading of the zoning ordinance amendment required for a PUD at the same meeting during which the preliminary PUD plan was approved.

Preparation and Filing of Final PUD

Upon approval of the preliminary PUD by the City Commission, the property owner(s) shall proceed with the preparation of the final PUD plan:

Upon approval of a PUD, the owner shall prepare a Statement of Standards for review and approval by the Zoning Administrator that describes the specific uses, development standards, deviations from the underlying zoning standards and conditions of approval. This Statement of Standards shall be approved as to form by the City Attorney, and upon approval by the Zoning Administrator recorded in the land records of Park County.

- (a) The final PUD plan shall incorporate all the conditions imposed by the City Commission at the time of approval of the preliminary plan.
- (b) The applicant shall submit three signed copies of a Final PUD Plan and other documents as required by the conditions of approval to the Planning Department. The applicant must also submit a draft PUD agreement between the City and the developer(s) for review by the City Attorney. Th agreement must bind the developer, his or her successors, heirs and assigns to the terms and conditions of the PUD. Upon approval by the Zoning Administrator, a signed copy of the plan shall be returned to the applicant, a signed copy shall be retained on file in the County Clerk and Recorder’s office and a signed copy shall be kept on file with the Planning Department.
- (c) All PUD documents required under the conditions of approval shall be submitted to the Planning Department in a timely fashion following approval by the Commission but in no case shall a final plat or building permit be issued until the final PUD plan has been submitted and approved and the PUD agreement has been executed.

Limitation on Rezoning

The City shall not initiate any amendment to the PUD before the completion of the approved PUD as long as development is in substantial conformity with the approved PUD and proceeding in accordance with the time requirements imposed therein by the completion schedule.

Amending an Approved Final PUD

Once approved, a PUD may be amended by the developer(s). Proposed amendments shall be submitted to the Zoning Administrator to make one of the following findings:

- (a) The change(s) is deemed minor in scope and may be granted or denied administratively by staff with or without conditions; or
- (b) The change(s) is deemed substantial, in which case the amendment(s) is forwarded to the City Commission for consideration and final action.

Any determination made administratively by the Zoning Administrator is appealable to the City Commission.

Abandonment or Expiration

The Zoning Administrator shall monitor the PUD for compliance with the completion schedule set forth in the approved development plan and to assure that all improvements have been made in accordance with the approved development plan. The following procedures are to be following when the PUD fails to comply with the completion schedule:

PUDs which do not involve or require a subdivision:

1. If a PUD project falls out of compliance with its approved completion schedule, or the landowner and/or developer does not submit annual progress updates to the Zoning Administrator, a notice of

noncompliance with the completion schedule shall be delivered in writing by certified mail to the landowner and/or developer;

- 2. No later than 30 days after the notice of noncompliance is delivered, the landowner and/or developer may submit a written request for time extension from the City Commission. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The Commission may grant one or more extension(s) but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the Commission which may be deemed necessary to address issues that have arisen due to the lapse in time;
- 3. Abandonment shall be deemed by the City Commission to have occurred when the landowner/developer is deemed to be out of compliance with the approved completion schedule and has failed to secure an extension as provided for in [section 2](#) above;
- 4. Upon the abandonment of a development authorized under this section, the City Commission shall direct the Zoning Administrator to do the following;
 - a. If a portion of the PUD site was developed in accordance with the PUD, the PUD approval conditions and any associated PUD Plan shall stay in force for that portion already developed; and
 - b. For that portion of the PUD which was not developed under the approved terms, the provisions of the PUD shall lapse and the site shall revert back to the base zoning district in place prior to approval of the PUD District.

For PUDs that included a subdivision of land, the process for abandonment or expiration cited in Chapter 28 of the Livingston Subdivision regulations shall be followed.