

VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION
AGENDA

The Village of Yellow Springs Planning Commission will meet in regular session on
Monday, June 14, 2010 at 7:00 PM in Village Council Chambers on the Second floor of
the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

7:00 CALL TO ORDER
ROLL CALL

7:02 REVIEW OF AGENDA

7:05 REVIEW OF MINUTES –April 12, 2010

7:08 PETITIONS AND COMMUNICATIONS
1. Planning Commissioners Journal

7:10 REPORTS
1. Council Update
2. Bike Enhancement Committee
3. Village Staff Report
4. Miami Township Zoning Commission Report

COMMUNICATIONS

7:20 CITIZENS' COMMENTS

7:30 PUBLIC HEARING

7:50 OLD BUSINESS

- Historic Preservation Ordinance Discussion
- PUD Chapter Review

8:30 NEW BUSINESS

8:55 AGENDA PLANNING

- 5-Year CIP Presentation – June 14, 2010

9:00 ADJOURNMENT

YELLOW SPRINGS PLANNING COMMISSION – MAY 10, 2010 VILLAGE STAFF REPORT

There are several items that Staff wants to provide an update on to Planning Commission.

CBE Update – Our consulting engineer on this project, Jacobs Engineering, has submitted a fee proposal for Part II of the project. Part II is the detailed design of the utility and roadway extensions/improvements. The fees for Part II still need to be negotiated and we expect to have a meeting on the scope of services for Part II within the next couple of weeks. This meeting will be attended by representatives of the Village, Community Resources, Jacobs, ODOT, USCOE, and Greene County.

Visioning/Planning Project – The Steering Committee met on April 22th and on May 6th. The majority of the work has been on the development and refinement of “actions” for each of the ten topics. Initially there were 136 actions, with over 75% being shown with an immediate or short-term timeframe (within 3 years). The overall number of actions and the timeframe will hopefully be refined at the May 6th meeting.

2010 Census Update – As of last Wednesday, the response rate for the Village is 75%, or in other terms, three out of four Yellow Springs households filled out and returned the forms. Our response rate is behind the Greene County (78%) and Ohio (76%), but ahead of the National Rate (72%). Getting an accurate count is vital to the Village getting its fair share of federal funding and representation. For those 25% of Village households who have not responded, someone from the Census will come knocking at your door.

Solar Access Ordinances - After the last Planning Commission meeting, I did some quick internet research and found several examples of Solar Access Ordinances, mostly from communities in California, Oregon, and Colorado. This should be useful starting points as the Commission discusses this topic later this year.



Memo

To: Planning Commission

Copy: Mark Cundiff

From: Brad Schwab, AICP

Date: May 4, 2010

Subject: Proposed Amendments for Chapter 1264 Planned Unit Development

A revised draft is attached for your review.

Section 1264.05 Specific Standards was modified to include stormwater "BMP" and "affordable" housing density bonuses. Other minor edits were made. You can quickly view all edits by looking for underlined text.

I look forward to seeing you at your May 10 meeting.

Attachment

CHAPTER 1264
Planned Unit Development

1264.01 PURPOSES

This Chapter is intended to permit the creation of a Planned Unit Development District in order to:

- (a) Facilitate the implementation of the Village Comprehensive Plan;
- (b) Take advantage of advances in technology, architectural design and functional land use design;
- (c) Deviate from the rigid established patterns of land use, controlled by defined policies, standards and objectives;
- (d) Produce a comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development;
- (e) Permit flexibility of design in the placement, height and uses of buildings and open space, circulation facilities and off-street parking areas;
- (f) More efficiently utilize potentials of a site characterized by special features of geography, topography, size or shape;
- (g) Encourage a mixture of residential and non-residential development in a responsible and creative manner; and
- (h) Encourage innovations in residential development so that demands for housing at all economic levels may be met by greater variety in type, design and citing of dwellings, and by conservation through more efficient use of land in such developments.

1264.02 AUTHORITY TO VARY REGULATIONS

In connection with approving a Planned Unit Development, the Planning Commission and Council shall have the authority to approve a Planned Unit Development that varies from the provisions of this Zoning Code or of the Subdivision Ordinance provided, however, such variation:

- (a) Will achieve the purposes for which Planned Unit Developments may be approved pursuant to the requirements of this Chapter;
- (b) Will not violate the general purposes, goals, and objectives of the Zoning Code and the Village's Comprehensive Plan;
- (c) Will not unduly burden adjacent roadways; and
- (d) Will result in a development providing compensating amenities to the Village.

1264.03 BASE ZONING DISTRICT REGULATIONS APPLY

- (a) The height and bulk regulations, parking and lighting requirements, and accessory use/structure regulations and others of this Zoning Code for the district in which the tract or parcel is located shall be applicable to the Planned Unit Development. The Planning Commission may, however, modify the applicable regulations and requirements consistent with Section 1264.02 above. The "A" Single Family Dwelling District will serve as the underlying zoning district for all

PUD's that seek a residential density bonus consistent with Section 1264.05.

- (b) Mixed use Planned Unit Developments shall comply with the regulations applicable for each individual use. The Planning Commission shall determine the most appropriate zoning regulations that apply when proposed land uses are not permitted in the underlying Zoning District. Residential units shall conform to "A" Single Family Dwelling District lot and yard requirements. If such determination cannot be made or if the regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply. Mixed use Planned Unit Developments should not be used to circumvent zoning regulations or Comprehensive Plan policies.

1264.04 ELIGIBILITY AND GENERAL STANDARDS

- (a) Minimum Size of PUD. Planned Unit Development shall be recognized as a floating, permissive zoning classification throughout Yellow Springs. Where this option is requested as the development vehicle, a one (1) acre contiguous minimum tract size shall qualify the development for PUD review.

For the purposes of this Zoning Code, "contiguous" shall mean where parcels or properties directly abut each other or where parcels or properties are directly across a street, stream or right-of-way from each other.

- (b) Permitted Uses. Any use permitted in this zoning ordinance may be permitted in the Planned Unit Development district provided that it is consistent with the overall purpose of the PUD district and is compatible with the adjacent uses. Planning Commission reserves the right to prohibit certain uses which it may find objectionable for the reason that such uses are not consistent with the intent of this Zoning Code or with the policies of the Comprehensive Plan.
- (c) Common Open Space Requirements. A minimum of twenty percent (20%) of the PUD shall be set aside as common open space in compliance with the following regulations:
- (1) Open space areas shall be suitable and usable for the functions intended, including maintenance.
 - (2) A minimum of ten (10%) percent of the required common open space shall be usable open space. Any common open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the Planning Commission. Where deemed appropriate by the Planning Commission, recreation areas shall be provided with sufficient parking and appropriate access and buffering from adjacent residential uses.
 - (3) No more than 50% of the required open space area may be covered by wetland, water or muck that is not a suitable environment for walking or similar passive leisure pursuits.
 - (4) Acceptable Types of Common Open Space. Common open spaces may be fully accessible by the residents and/or owners of the PUD and/or by the general public. The following types of common open spaces may be considered, either alone or in combination, to satisfy open space requirements of the PUD:

A. Woodlands;

- B. Floodplains;
 - C. Wetlands;
 - D. Riparian Areas;
 - E. Agricultural Uses;
 - F. Retention and detention pond areas provided such facilities are accessible by residents or tenants and have a passive or active recreational use;
 - G. Public Access Open Space; and
 - H. Unimproved paths or trails including pedestrian trails, bicycle trails, hiking trails and horse trails.
- (5) Land area devoted to the following shall not be included as meeting the common open space requirement:
- A. Public streets rights-of-way, private roads, and parking areas;
 - B. Required setbacks between buildings, parking areas, and project boundaries and between buildings and public streets unless the required setback is contiguous to and part of a larger area of open space;
 - C. Required spacing between buildings and between buildings and parking areas;
 - D. Private yards;
 - E. The land area within fifteen (15) feet of all dwelling units.
- (6) Planning Commission shall have the authority to modify common open space requirements if the PUD site is less than two (2) acres in size and if exceptional design, significant landscaping elements or other amenities are provided for in the development and are identified as such by the Planning Commission.
- (7) Common open space shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Solicitor and duly recorded in Recorder's Office of Greene County.

1264.05 SPECIFIC STANDARDS

The standards, which follow, shall be in addition to other applicable standards provided for in this Chapter.

- (a) Density. The number of dwelling units allowable within Planned Unit Development project shall be determined through review of a parallel plan prepared by the applicant. The parallel plan shall meet all "A" Single Family Dwelling Districted standards for lot width, lot area and minimum setbacks and the Village's Subdivision Regulations, public road and utility improvement requirements, and contains an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting regulated wetlands or 100 year

floodplains.

The Planning Commission shall review the design and determine the number of lots that can be constructed following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the Planned Unit Development project. The Planning Commission may grant a density bonus for exemplary projects as provided in Section 1264.05(b) below.

(b) Residential Density Bonus. The maximum density bonus attainable is 40%. The maximum density permitted shall be based on the density assigned to the "A" Single Family Dwelling parallel plan plus additional density bonus credited to the PUD consistent with following regulations:

- (1) A density bonus of up to fifteen percent (15%) may be permitted at a rate of one percent (1%) of additional density for every one percent (1%) of additional open space provided over the minimum open space requirement of 20%. (Example, a project which has 25% open space may be permitted a density bonus of 5%). In each phase of construction, the average density of dwelling units shall not be greater than 125% of the average allowable for the total site.
- (2) A density bonus of up to fifteen percent (15%) may be permitted at a rate of one percent (1%) of additional density for every one percent (1%) of housing units that are affordable. This bonus shall apply only to for-sale, market-rate housing. Approved affordable housing units shall be designed to qualify households that earn 80% or less of the area's median household income. Rules for oversight of this density bonus shall be clearly written as a condition of PUD approval and be included in the PUD covenants and restrictions.

The Planning Commission may approve smaller lot sizes, smaller units, and attached (townhome) single family units. The design and materials of affordable units should be materially similar to product. Affordable units are to be dispersed throughout the PUD to avoid isolating affordable units in a cluster within the PUD.

- (3) A density bonus of up to ten (10) percent shall be permitted for implementation of a comprehensive storm water management plan approved as part of the PUD. A five (5) percent density bonus shall be permitted for a PUD incorporating post construction storm water best management practices (BMPs) designed to maintain predevelopment runoff patterns, flow rates and volumes during a 2-year, 24-hour storm event, and events more frequent. A ten (10) percent density bonus shall be permitted for PUD incorporating BMPs designed to maintain predevelopment runoff patterns, flow rates and volumes during a 10-year, 24-hour storm event, and events more frequent. All BMPs designed for the PUD shall follow the guidelines of the current edition of the Ohio Department of Natural Resources Rainwater and Land Development Manual. The applicant must include a storm water BMP maintenance plan and an enter an agreement with the Village indicating that the applicant or its successors or assigns (e.g. Home Owners Association) will provide maintenance according to the BMP maintenance plan in perpetuity. The Village Engineer and Soil and Water Conservation District shall review and recommend a density bonus regarding BMPs prior to

Planning Commission approval.

- (c) Utilities. All electrical and telephone facilities, street light wiring and other wiring conduits and similar facilities shall be placed underground by the developer, unless waived by the Planning Commission (subject to Section 1264.16, Financial Responsibility).
- (d) Site Design. All housing shall be sited to preserve privacy and to ensure optimal utilization of natural light. Lot widths may be varied to permit a variety of structural designs. It is also recommended that setbacks be varied. A clustering of dwellings is encouraged to allow housing units to abut common open space.
- (e) Spacing of Buildings and Structures. A minimum of thirty-five (35) feet shall be maintained between principal residential and principal non-residential structures unless waived by the Planning Commission based on the buffering provided between the residential and non-residential uses. Preferably, residential and non-residential uses are separated by common open space.
- (f) Mixed Use Buildings and Structures.
 - (1) Any building incorporating residential and commercial and/or office uses shall limit the non-residential use to the lowest two (2) floors of the building or structure.
 - (2) Where residential and non-residential uses are located within the same building or structure, there shall be separate exterior entrances for the two uses.
- (g) Setback and Screening. The amount of setback and/or screening may be increased at the discretion of the Planning Commission based on the location, shape, size, topography or adjacent uses. Residential developments located adjacent to commercial or industrial zones shall be provided with screening comprised of landscaping, walls, fences, etc., which will provide suitable protection to the residential development as recommended by the Planning Commission and approved by Council. Commercial and industrial developments shall provide minimum screening per requirements in commercial and industrial zoning districts. Screening facilities shall not obscure traffic visibility within fifty (50) feet of an intersection.
- (h) Parking Requirements. See Chapter 1268. However, the Planning Commission, upon request of the applicant, may reduce the minimum number of on site spaces if collective parking is available within the PUD.
- (i) Signs. See Chapter 1276.
- (j) Pedestrian Circulation. The Planned Unit Development plan shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system. The Planned Unit Development shall be designed with a sidewalk network to accommodate safe pedestrian circulation throughout and along the perimeter of the site, without interference from vehicular traffic. Pedestrian passage in a form of a access easement is strongly recommended between dead-end streets, including cul-de-sacs, and adjacent thoroughfares and developments.
- (k) Pedestrian Amenities. Pedestrian amenities include any element that further enhances the visual appeal of the development and community and benefits residents, guests, employees or patrons of the development. Examples include,

but are not limited to public assembly areas including: plazas, formal gardens, patios, playgrounds and courtyards; decorative and natural looking water features and fountains; and pedestrian walkways (paths) and sidewalks made of decorative materials and colors. Each area shall provide benches and other amenities designed to attract pedestrians as a place to rest, congregate and socialize. Each planned development shall have a minimum of two of the above mentioned or other amenity landscaping.

1264.06 PROCEDURAL REQUIREMENTS; REQUIRED CHARGES

- (a) It is the purpose of sections 1264.06 through 1264.10 to establish procedures, supplementary to those applicable in the standard zoning districts created by this Zoning Ordinance, under which an applicant may prepare development plans particularly designed to meet the objectives for a Planned Unit Development. Procedures are also established for professional review of such development plans, action thereon by the village and the implementation thereof.
- (b) The complete review and approval process for a Planned Unit Development (PUD) consists of the following:
 - (1) Optional Steps
 - A. A recommended pre-application conference with Village staff (See Section 1264.07);
 - B. A recommended Concept Plan review by Planning Commission (See Section 1264.08).
 - (2) Required Steps
 - A. Preliminary Plan review and recommendation by the Planning Commission (See Section 1264.08);
 - B. Preliminary Plan review and approval by Council (See Section 1264.09);
 - C. Final Development Plan review and approval by the Planning Commission (See Section 1264.10). The Final Development Plan may be reviewed concurrently with the Preliminary Plan when subdivision plat approval is not required and the data requirements of Section 1264.09 and 1264.10 are provided.
 - D. A preliminary plan and final plat for any PUD requiring subdivision plat approval shall be submitted simultaneously with the Preliminary and Final Development Plan for concurrent approval.
- (c) The applicant shall be responsible for the reasonable expenses incurred by the village in reviewing the plan or any modifications to the plan. Such expenses may include items such as the cost of professional and review services, including expenses and legal fees in connection with reviewing the plan and prepared reports, the publication and mailing of public notice in connection therewith and any other reasonable expenses directly attributable thereon.

At the time of submitting the preliminary plan to the Planning Commission for consideration, the applicant shall make a deposit in the office of the clerk in an amount equal to the estimated cost of the village's expense. This deposit shall not exceed two thousand five hundred dollars (\$2,500) at any time. When this

deposit has been depleted to fifteen percent (15%), another deposit will be requested. All funds that remain in the account shall be returned to the applicant after the PUD is approved and all conditions are met.

1264.07 PRE-APPLICATION CONFERENCE

- (a) Prior to filing a formal application for approval of a Planned Unit Development, the applicant is strongly encouraged to request a pre-application conference with the Zoning Administrator.
- (b) During the pre-application conference, the applicant shall be prepared to present a general concept of the proposed development prior to preparation of detailed plans. For this purpose, the pre-application conference shall include, but not be limited to the following:
 - (1) A location map;
 - (2) A topographic sketch;
 - (3) Sketch plans and ideas regarding land use, general locations of uses, open space, dwelling types and density, street and lot arrangement and tentative lot sizes;
 - (4) Tentative proposals regarding water supply, sewage disposal, surface drainage and stormwater management and street improvements.
- (c) The Zoning Administrator shall advise the developer of the zoning requirements and Village plans which might affect the proposed development, as well as the procedural steps for approval.
- (d) No statement or representation by the Zoning Administrator during the pre-application conference shall be binding on either the Planning Commission or Council.

1264.08 CONCEPT PLAN

- (a) Presentation of a concept plan to the Planning Commission is voluntary. The applicant may elect to start at the Preliminary Plan phase. The Concept Plan phase is advisory only. Its purpose is to give the applicant and Planning Commission an opportunity to discuss the PUD before a formal PUD application is submitted.
- (b) Application shall be made to the Zoning Administrator for transmittal to the Planning Commission. Ten (10) copies of all materials shall be required, including maps to scale, sketch plans and supporting narratives. The established **fee** for this phase shall be included with this application.
- (c) Application materials shall include, but not be limited to, the following:
 - (1) A letter of transmittal identifying all property owners within the proposed PUD and demonstrating tentative agreement of all owners to proceed with development according to plans and to bind their successors in title to abide by any final commitments;
 - (2) A location map identifying the proposed PUD and indicating the relation of the proposed PUD to the surrounding area showing locations and widths of contiguous streets, relation to surrounding walkway systems, the

- approximate locations, sizes and depths of existing public sanitary and storm sewers and the approximate location and size of nearby and existing water lines;
- (3) A topographic sketch map, of the entire site, and surrounding the site a distance of one-hundred feet per acre of development not to exceed 200 feet, with contour lines at recommended intervals no greater than two (2) feet or at a contour interval readily available from the County;
 - (4) The general identification on a map of wooded areas, streams, lakes, marshes and any other physical conditions affecting the site.
 - (5) The specific location of proposed land uses within the Planned Unit Development. The amount of area dedicated to each type of land use shall be indicated. The types of uses and their extent, size and composition in terms of use, intensity and coverage of structures shall be specified. For residential developments, dwelling unit density in terms of dwelling units per gross acre and minimum lot sizes, frontages and setbacks shall be specified.
 - (6) The interior open space system and open space calculations.
 - (7) The conceptual circulation system, noting the primary roadway and pedestrian systems within the project and their connection to the existing network.
 - (8) All federally designated 100 year flood plain areas.
 - (9) The base zoning of the site and the existing zoning of all adjoining properties.

1264.09 PRELIMINARY PLAN REVIEW AND ACTION

- (a) The preliminary plan shall include the following information:
 - (1) A completed PUD Application provided by the Village submitted with required fee and ten (10) copies of a Preliminary Plan and report, with supporting artist's renderings and maps at an appropriate scale to accurately depict the project on a 24 x 36 inch sheet of paper and ten (10) copies on 11 x 17 inch paper. The Village reserves the right to request additional copies of the preliminary plan for subsequent Planning Commission and Council meetings.
 - (2) The boundary of the proposed Planned Unit Development with bearings and distances indicated for all proposed boundary lines. The total area of the proposed planned unit development should be indicated. Legal description of property.
 - (3) A list containing the names and addresses of all property owners adjacent to and within 300 feet of the subject property printed on 2 sets of address labels.
 - (4) The base zoning of the site and the existing zoning of all adjoining properties.
 - (5) Existing features of the site within 100 feet including topography at 2 foot intervals or less, vegetation, trees with 8-inch caliper or greater,

- roadways, structures, permanent facilities, drainage courses and utilities.
- (6) All federally designated 100-year flood plain areas.
 - (7) The general identification of wooded areas, streams, wetlands, lakes, marshes and any other physical conditions affecting the site.
 - (8) Indications of subsurface conditions on the site, including the location and results of tests made to certain the condition of subsurface soil, rock and around water and the existing depth to ground water unless the applicant requests, for good cause shown, that the test and study is not necessary.
 - (9) The specific location of proposed land uses within the Planned Unit Development. The amount of area dedicated to each type of land use shall be indicated. The types of uses and their extent, size and composition in terms of use, intensity and coverage of structures shall be specified. For residential developments, dwelling unit density in terms of dwelling units per gross acre and minimum lot sizes, frontages and setbacks shall be specified. Housing unit by type and number shall be specified.
 - (10) A phasing plan for any development, which will require more than twenty-four (24) months to complete. The phasing plan shall indicate the order and timing of the development, and shall demonstrate that each stage, when completed, will complement any development completed earlier and will form a reasonably independent unit even though succeeding stages are delayed. The phasing plan shall indicate the amount and location of common open space to be provided at each stage.
 - (11) The interior open space system including proposed civic uses, parks, playgrounds, pedestrian pathways includes open space area calculations.
 - (12) Proposed vehicular, bicycle and pedestrian circulation patterns, including streets by type (major, collector or minor), width, public or private bicycle and pedestrian ways and their connection to the existing network including existing and proposed right-of-way widths. Existing or platted streets proposed to be vacated. A report shall be provided, if appropriate in a particular development, containing proposals for improvement and continuing maintenance and management of any private streets.
 - (13) Traffic impact statement and environmental impact statement that compares water and sewer needs at project build out with available capacities.
 - (14) Conceptual utility layout indicating approximate location of lines, easements, and connections.
 - (15) A vicinity map at a scale approved by the zoning administrator showing the property lines, streets, existing and proposed zoning, and such other items as the zoning administrator may require.
 - (16) Proposed grading plan that would substantially alter the topography.
 - (17) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development.
 - (18) The substance of covenants, grants or easements or other restrictions

existing or proposed to be imposed upon the use of land and for buildings, structures and utilities.

- (19) Conceptual renderings showing proposed architectural style and building materials of each building type proposed.
 - (20) Any other type of information that may be required by the Planning Commission.
- (b) Operational Standards for Review of Applications. The Planning Commission shall not approve a request for a Planned Unit Development unless it shall, in each specific case, make specific findings of fact, directly based upon the particular evidence presented to it, which support the conclusion that:
- (1) The Planned Unit Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.
 - (2) The site will be accessible from public roads that are adequate to carry the traffic, which will be imposed on them by the proposed development. The streets and bikeways on the site of the proposed development will be adequate to serve both the residents of the proposed development and the community at large. On-site and abutting thoroughfares shall be brought into conformity with the Yellow Springs Thoroughfare Plan.
 - (3) The development will not impose any undue burden on public facilities and services, such as fire and police protection.
 - (4) The development plan contains such proposed covenants, easements and other provisions relating to the proposed development as are reasonably required for the public health, safety and welfare.
 - (5) The location and arrangement of structures, parking areas, walks, lighting, signage and appurtenant facilities shall be compatible with the surrounding land uses.
 - (6) Natural features such as watercourses, trees and rock outcrops will be preserved, to the degree possible, so that they can be incorporated into the layout to enhance the overall design of the Planned Unit Development.
 - (7) The layout is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services.
 - (8) The development pattern preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns.
 - (9) Identifiable negative environmental, social or economic effects on surrounding areas and on the community at large will be minimized.
 - (10) The PUD conforms to the goals and objectives set forth in the Yellow Springs Comprehensive Plan
- (c) Procedure for Consideration and Approval of Preliminary Plan.
- (1) Upon receipt of a preliminary development plan, the zoning administrator

shall transmit a copy of the preliminary plan to the village planner, village engineer, fire chief and police chief for their review, report and recommendation. Written review comments shall be returned to the zoning administrator within fifteen (15) days, unless otherwise extended, to furnish the Planning Commission a report upon their respective jurisdiction.

- (2) The Planning Commission shall study material received and shall confer with other agencies of government as appropriate in the case to determine general acceptability of the proposal as submitted. In the course of such preliminary considerations, the Planning Commission may request, and the applicant shall supply, additional material needed to make specific determinations.
- (3) Following such study, the Planning Commission or its staff shall hold a conference or conferences with the applicant to discuss desirable changes in the first or succeeding drafts of the Preliminary Plan and report. Recommendations of the Planning Commission to the applicant shall be in writing.
- (4) Following any such conference, agreements between the applicant and the Planning Commission as to changes in the Preliminary Plan and report or other matters shall be recorded and acknowledged by the Commission and the applicant. On items on which no agreement is reached, or where there is specific disagreement, this fact shall be recorded, and the applicant may place in the record his or her reasons for any disagreement.
- (5) When the Preliminary Plan and report have been approved in principle (as a whole or with reservations duly noted), or when the applicant indicates in writing that no further negotiations with the Planning Commission are desired before proceeding, the Commission shall, within forty-five (45) days, schedule the proposed plan for a public hearing and shall make its recommendations to Council thereafter.

Notice of such hearing shall be published in the newspaper at least ten (10) days in advance of the hearing. The notice shall set for the time and place of the public hearing, a general description of the planned unit development, and a statement that, after the public hearing and submission of a final development plan, the matter will be referred to the Council for further determination.

Written notice of the hearing on the planned unit development shall be mailed by the clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property located within 300 feet of a PUD boundary. Notices to individual property owners should contain the same information as required of notices published in the newspaper.

Planning Commission's written recommendations to Council shall indicate approval, approval with specific conditions or disapproval with reasons. With such recommendations, the Commission shall transmit to Council, and make available to the public, the latest draft of the preliminary plan and report submitted by the applicant, a record of agreements reached and matters on which there was no specific agreement, including any reasons recorded by the applicant for any such disagreement.

- (6) Council shall schedule a public hearing for the Preliminary Plan after receiving the proposal from the Planning Commission as per the notification requirements of the Village. Council shall approve the proposal, approve the proposal subject to conditions or deny the proposal within sixty (60) days after the close of the Public Hearing. Notice of such hearing shall be published in the newspaper at least thirty (30) days in advance of the hearing. Written notice of the hearing on the planned unit development shall be mailed by the clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property located within 300 feet of a PUD boundary. If approved, the area of land marked shall be rezoned "Planned Unit Development" (PUD) and shall be used only in accordance with the uses and densities shown on the approved Preliminary Plan.

1264.10 FINAL DEVELOPMENT PLAN APPROVAL PROCESS

- (a) **Submittal Requirements.** The Final Development Plan shall conform substantially to the Preliminary Plan as approved, and shall be filed within six (6) months after approval by Council of the preliminary plan. Twelve (12) copies of such plan shall be filed with the zoning administrator along with a complete application including required review fee. The Zoning Administrator shall forward copies of the final plan to the Planning Commission.

Within sixty (60) days after submission of the final development plan, the Planning Commission shall recommend that the final development plan be approved as presented, approved with conditions, or disapproved.

If desired, the developer may submit the Final Development Plan in stages, with each stage reflecting a portion of the approved Preliminary Plan, which is proposed to be recorded and developed, provided, however, that such portion conforms to the requirements of these regulations.

- (b) **Materials to be Submitted.** Final Development Plans and reports shall include:
 - (1) The final plan shall contain and be accompanied by the following unless waived by planning commission as inapplicable:
 - A. Topography, at a two (2) foot contour interval, of the proposed development area, including property lines, easements, street right-of-way, existing structures, trees and landscape features existing thereon, floodplains, wetlands, ravines, stream areas, ponds and lakes, and including a certificate, by a registered engineer or surveyor, of the gross area of the development area in acres and square feet.
 - B. The vehicular and pedestrian traffic patterns, proposed location and design of public and private streets; the directional flow and location of existing and proposed storm and sanitary sewers and sewers connecting with existing or proposed Village interceptor, outlet or trunk sewers outside the development area; the location and design of parking and service areas; and an estimate of traffic volumes to be generated, including the assignment of traffic to proposed entrances and exits.
 - C. A site plan, including the proposed public street system with right-of-way, all easements, the use and subdivision of all land including common and private land, and the location of each existing structure

to be retained.

- D. A plat of the development area showing street right-of-way, subdivided and common land and easements in accordance with the requirements of the village subdivision regulations which shall be in form for recording.
- E. Detailed plans and specifications for all streets, sidewalks, storm and sanitary sewers, water mains, street illumination, open space calculations, open space amenities, and all other site features of the development area or that portion of the development area to be developed, designed in accordance with the Village subdivision regulations. Upon approval and recommendation from the village engineer, planning commission may vary the Village's subdivision regulations to allow more flexibility in design.
- F. A detailed landscape plan showing all site features and finished grading for public and private lands within the development area.
- G. The final form of covenants running with the land and deed restrictions (including the use of common land); covenants, restrictions or easements to be recorded; declaration of covenants, restrictions and bylaws of a home association and its incorporation; declaration of condominium ownership and other covenants, if any, for maintenance.
- H. Estimated project cost, including estimates for all public and private improvements.
- I. Construction schedule.
- J. Finished floor elevations and floor plans for all buildings and structures.
- K. Stormwater and soil erosion control plans.
- L. Final renderings and building elevation drawings including colors, materials and dimensions.
- M. Descriptive data as to the type of buildings, square footage for each use and number of dwelling units in each building type.
- N. In the event the final plan of a development area includes the subdivision of land, any map, plat or other data required for compliance with the provisions of the village subdivision regulations.

- (1) The Planning Commission may require additional data and/or drawings to supplement the above when more information is needed or when special conditions occur.

(c) Procedures for Consideration and Approval of Final Development Plan.

- (1) The Planning Commission, upon receipt of the Final Development Plan from the Zoning Administrator, shall deal with such plan as it would with a Final Development Plan of a subdivision, recognizing the variations allowed from the approval of the Preliminary Plan.

- (2) The Planning Commission shall then approve, approve subject to conditions, or deny, the Final Development Plan. If the Planning Commission finds that a proposed final plan of development area is in substantial accordance with and represents a detailed extension of the preliminary plan heretofore approved by council; that it complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan; that it is in accordance with the design criteria and provisions of this zoning ordinance which apply particularly to any plan of the planned unit development; that all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed; that all fee payments have been made and that the provisions of the subdivision regulations have been met; that the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for commerce and/or residential development; then the Planning Commission shall approve such final plan.
- (d) Recording of the Final Development Plan as Subdivided Land. After approval of the Final Development Plan, the Final Development Plan shall be presented to the Greene County Recorder for recording within sixty (60) days unless the Final Development Plan does not need to be recorded as a subdivision (e.g. condominium development) or Village approvals shall become null and void.

The purpose of such recording is to designate with particularity the land subdivided into conventional lots as well as the division of other lands, not so treated, into common open areas and building areas, and to designate each building or structure, as well as the use of the land in general.

1264.11 DENIAL OF A PLANNED UNIT DEVELOPMENT PLAN

No application for a Planned Unit Development which has been denied wholly or in part by the Planning Commission or Council shall be resubmitted for a period of one (1) year from the date of such order or denial, except on the ground of new evidence or proof of change of conditions found to be valid by the Commission and Council.

1264.12 ZONING PERMITS

No zoning permit shall be issued for individual buildings until the Final Development Plan has been reviewed and approved.

1264.13 COMPLIANCE WITH DEVELOPMENT PLAN AND SUPPORTING DATA; MINOR AND MAJOR CHANGES

- (a) In General. A Planned Unit Development shall be developed only in accordance with the approved Final Development Plan and all supporting data. The approved Final Development Plan and supporting data, together with all amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises, including the internal use of buildings and structures and the location of structures in the Planned Unit Development as set forth therein.
- (b) Minor Changes. The Zoning Administrator, upon notifying the Planning Commission, may approve minor changes in the approved Planned Unit Development, which do not change the concept or intent of the development,

without following the Preliminary Plan approval procedure provided in Section 1264.08. A minor change is defined as any change not defined herein as a major change.

- (c) Major Changes. Major changes shall include changes which alter the concept or intent of the Planned Unit Development, including:
- (1) Increases in the number of units per acre;
 - (2) Changes in the location, amount, addition or removal of nonresidential land uses;
 - (3) More than a fifteen (15) percent modification in the proportion of housing types;
 - (4) Reductions of proposed open space; and
 - (5) Significant redesign of roadways, bicycle paths, utilities or drainage.

Such major changes may be approved only by submission of a new Preliminary Plan and supporting data and following the Preliminary Plan approval procedure provided in Section 1264.08 and any subsequent amendment of the Final Development Plan. Any major changes, which are approved for the final plat, must be recorded, as applicable, as amendments to the record copy of the Final Development Plan by the Greene County Recorder, and no zoning permit shall be issued until such recording is accomplished.

1264.14 REVOCATION OF AUTHORIZATION

- (a) The Planning Commission shall consider the Planned Unit Development authorization subject to revocation if construction falls more than one (1) year behind the phasing schedule filed with the Final Development Plan.
- (b) In any case where a Planned Unit Development has not been established or is not substantially underway within one (1) year from the date of the granting thereof, then, without further action from the Planning Commission, the approved Final Development Plan shall be considered null and void.

1264.15 GUIDELINES FOR CONVEYANCE AND MAINTENANCE OF COMMON OPEN SPACE

- (a) All land shown on the Final Development Plan, as specified in this Chapter, as common open space, must be conveyed under one of the following options:
 - (1) It may be conveyed to a public agency or trustee approved by Council such as a civic land trust, which will agree to maintain the common open space and any buildings, structures or improvements, which have been placed on it.
 - (2) It may be conveyed to trustees provided in an indenture establishing a neighborhood association or similar organization for the maintenance of the Planned Unit Development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Planning Commission which restrict the common open space to the uses specified on the Final Development Plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

- (b) No common open space may be put to any use other than that specified in the Final Development Plan unless the Final Development Plan has been amended and approved by the Planning Commission to permit that use. However, no authorized change of use may be considered as a waiver of any of the covenants limiting uses of common open space areas. Furthermore, all rights to enforce these covenants against any permitted use are expressly reserved to the Village.

1264.16 ESTABLISHMENT AND RESPONSIBILITIES OF NEIGHBORHOOD ASSOCIATIONS

- (a) Covenants for mandatory membership in a neighborhood association, setting forth the owners' rights and interest and privileges in the association and the common open space, shall be approved by the Planning Commission and included in the deed for each lot.
- (b) This neighborhood association shall have the responsibility of maintaining the common open space and operating and maintaining local neighborhood recreational facilities within such common open space. Maintenance of common open space includes the maintenance and upkeep of all shared facilities, accessways, open spaces, lighting, etc. in the common areas.
- (c) The association shall be empowered to levy annual charges against the property owners to defray the expenses connected with the maintenance of open spaces and neighborhood recreational facilities. Such charges shall become a lien against any property, which may be in default.
- (d) Trustees of such association may be replaced by recall action of association members, but in no case shall an association or its trustees fail to discharge its duties, nor shall it dispose of any common open space by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the uses specified in covenants and deed restrictions, or to the Village or other governmental agency designated by Council.
- (e) The developer or subdivider shall maintain control of such open spaces and be responsible for their maintenance until development sufficient to support the association has taken place. The Planning Commission, upon request of the neighborhood association or the developer or subdivider, shall make such determination.
- (f) In the event that the organization established to own and maintain common open space, or any successor organization, shall, at any time after establishment of the Planned Unit Development, fail to maintain the common open space in reasonable order and condition in accordance with the plan, the Village may serve written notice upon such organization or upon the residents and owners of the Planned Unit Development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Such notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days of receipt of such notice and shall state the date and place of a hearing thereon which shall be held before Council within fourteen (14) days of the notice. At such hearing the Village may modify the terms of the original notice of deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in modifications thereof shall not be cured within thirty (30) days or any extension thereof, the Village, in order to preserve the taxable values of the properties within the Planned Unit Development and to prevent the common open space from becoming a public nuisance, may enter upon such common open space and

maintain the same for a period of one (1) year.

- (g) If common open space is only available to residents of the PUD, the cost of such maintenance by the Village shall be assessed proportionately against the properties within the Planned Unit Development which have a right of enjoyment of the common open space, and such cost shall thereby be made a lien upon each lot, parcel or unit of the Planned Unit Development. The Village, at the time of entering upon such common open space for the purpose of maintenance, shall, every three months, bill the owners for their share of the maintenance cost. If the same is not paid within thirty (30) days after such billing, the cost shall be certified by the Village Manager to the Greene County Auditor, who shall place the same on the tax duplicate as a tax lien or assessment against the owner's property, with the interest and penalties allowed by law, to be collected in the same manner and at the same time as other taxes are collected.

1264.17 FINANCIAL RESPONSIBILITY

After a Planned Unit Development has been approved and before it is recorded at the Greene County Recorder's office, where applicable, the developer shall execute a performance bond, certified check or irrevocable letter of credit to the Village of Yellow Springs covering the estimated cost of required public and/or common area improvements (utilities, landscaping, infrastructure, etc.) for each phase or stage of the project. Bonds shall be kept in the office of the Village Manager. A performance bond or cash deposit shall be made in favor of Yellow Springs and shall provide that the developer, or his or her heirs, successors, assigns, agents or servants, will comply with all applicable terms, conditions, provisions and requirements of these and other pertinent regulations, and will faithfully perform and complete the work of constructing such facilities or improvements in accordance with such laws and regulations. Performance bonds, certified checks or letters of credit posted for landscaping shall be held for a minimum of one (1) year from the installation to insure the survival of the required landscaping.