

ARTICLE II.A. PLANNED UNIT DEVELOPMENT

Section 2A.201. STATEMENT OF PURPOSE AND AUTHORITY

- A. The purpose of this Planned Unit Development (PUD) Article is to set forth the procedures and requirements for establishing and mapping PUD districts in the Town, which may be located on land that is zoned at least in part as commercial, after authorization by the Town Board in accordance with this Article. The PUD district is intended to provide land use and design flexibility to facilitate development of mixed-use or single use projects in a unified manner, which projects would not otherwise be possible in the underlying zoning district or under standard zoning regulations. The PUD district is intended to balance the need for flexible land use planning with the need for appropriate land use variety and design, efficient use of public improvements, and protection of community interests. This Article is intended to ensure that PUDs contribute positively to the community by requiring sound land use planning consistent with the goals and intentions of the Town of Tyre Comprehensive Plan.
- B. Areas may be zoned as a PUD district by the Town Board. The Town Board can decide not to entertain any petition or application to rezone, including one to rezone to PUD district.
- C. All development restrictions for any PUD district, such as height limits, building coverage, and lot size, shall be those set forth under this Article and in the legislation rezoning an area as a PUD district following approval of a PUD district application. The Town Board may impose any conditions or limitations that it determines are necessary or desirable to ensure that the development is consistent with the Town Comprehensive Plan, including limiting the permitted uses, location or size of structures, providing for open space, requiring screening, construction sequencing or bonds, or requiring other assurances of completion of any infrastructure to be built as part of the development.

Section 2A.202. DEFINITIONS

Unless otherwise stated, the definitions set forth in Article XI of the Town Zoning Law shall apply to this Article II.A.

Section 2A.203. GENERAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT DISTRICTS

- A. General Guidelines.
 - (1) A person that seeks to establish a PUD district in the Town of Tyre must submit a PUD District Application to the Town Board in accordance with Section 2A.204. Only persons who can demonstrate legal control over the parcel(s) covered by the proposed PUD district, or their authorized representative(s), may file a PUD District

- Application. A contract-vendee for a parcel or parcels of land may be considered to have sufficient legal control for purposes of submitting a PUD District Application.
- (2) The establishment of a PUD district shall require two steps: (i) approval of the PUD District Application, which contains the conceptual Development Plan for the project, pursuant to Section 2A.204; and (ii) enactment of a local law to establish the legal boundaries and authorized parameters of the PUD district and to amend the Town Zoning Map to depict the approved PUD district pursuant to Section 2A.205.
 - (3) After a PUD district is established, the applicant must obtain approval of the Site Plan for the project in the PUD district pursuant to Section 2A.206.
 - (4) No permit for the erection of a building or structure may be granted until after all necessary approvals under this Article have been issued.

B. Location, Use, and Minimum Dimensional Requirements.

- (1) The minimum area required to qualify for a PUD district shall be seventy-five (75) contiguous acres of land. A PUD district may be located only where a portion of the contiguous acreage for the proposed development is in an area zoned for commercial use.
- (2) In a PUD district, buildings and land may be used for any lawful purpose which the Town Board may authorize.
- (3) No structure in a PUD district shall exceed the lesser of six (6) stories or eighty (80) feet in height. Chimneys and utility infrastructure attached to such structures may extend above the highest point of the building structure.
- (4) Because land is used more efficiently in a PUD district, improved environmental quality can often be produced with greater density or intensity (e.g. amount of floor space per building) than is usually permitted in traditionally-zoned districts. The Town Board has authority to determine in each case the appropriate land use intensity and/or density for individual projects, including but not limited to, the total land area, if any, devoted to open space.

Section 2A.204. APPLICATION TO CREATE A PUD DISTRICT AND APPROVAL PROCEDURES

A. General.

- (1) The applicant or its authorized agent shall apply to the Town Board for approval to establish a PUD district in the Town in accordance with the following procedures.

- (2) In accordance with the provisions of [enter applicable citation], the applicant for a PUD district shall pay and the Town shall be entitled to receive reimbursement for expenses associated with the review of any application submitted pursuant to this Article.

B. Submission of the PUD District Application. A person seeking to create a PUD district in the Town of Tyre must submit a PUD District Application to the Town Board for approval, together with payment in full for the application fee required by the fee schedule set forth under Section [enter applicable citation]. The Town Engineer will advise the Town Board on whether a PUD District Application is complete for purposes of compliance with this Section and further review under this Article. The Town Board thereafter may determine whether to proceed with reviewing the PUD District Application. Each PUD District Application shall be comprised of the following:

- (1) Evidence that the applicant is the owner, or otherwise has legal control, over the parcel(s) covered by the PUD District Application such that the applicant will be capable of implementing the proposed development.
- (2) A conceptual Development Plan, at an appropriate scale, illustrating the type, uses and design of the proposed development, which shall also include the following information:
 - (a) Description of the parcels involved by the tax map numbers, legal descriptions, addresses, and ownership;
 - (b) An area map prepared by a licensed engineer showing applicant's entire holding, that portion of the applicant's property under consideration for the PUD district, and all properties, streets, and easements within 500 feet of the applicant's property;
 - (c) A location map showing existing and proposed uses and proposed lot lines, and ownership and use of abutting lands;
 - (d) Topography, soil conditions, utilities, and drainage;
 - (e) Land uses, building locations and sizes (including height, footprint, and total square footage), and signage;
 - (f) Roads, parking, and walks;
 - (g) Open space areas;
 - (h) Landscaping and screening; and
 - (i) Principal ties to the community at large with respect to transportation, water supply, and stormwater, sanitary and solid waste disposal.
- (3) Evidence that the proposal is compatible with the goals of the Town Comprehensive Plan.
- (4) An explanation of how the proposed development creates a long-term community benefit for the Town and why a PUD is desirable for the proposed development rather than the existing zoning.

- (5) If the development is to be staged, a general indication of how the staging will proceed, together with evidence that the applicant has the technical and financial competence to carry out the plan.
 - (6) A completed Part 1 of the Full Environmental Assessment Form (FEAF), together with any necessary photographs, reports, or other exhibits for purposes of reviewing the application under the State Environmental Quality Review Act (SEQRA). The completed FEAF shall consider the full scope of the proposed development set forth in the PUD District Application.
- C. Compliance with SEQRA. In its review and determination on the PUD District Application, the Town Board will comply with the provisions of SEQRA set forth under Article 8 of the New York State Environmental Conservation Law and its implementing regulations set forth at 6 NYCRR Part 617. During the SEQRA review, the Town Board shall make a determination of significance for each PUD District Application, and if the Town Board issues a positive declaration of significance, then a Generic Environmental Impact Statement shall be prepared for the proposed conceptual Development Plan and the rezoning.
- D. Local Agency Referrals. If the Town Board accepts the PUD District Application for review, the Town Board shall refer the PUD District Application, which includes the Development Plan, to the Town Planning Board and the Seneca County Planning Board for their review and recommendation.
- (1) Referral to the Town Planning Board. The Town Board shall refer the PUD District Application to the Planning Board for review. The Planning Board shall review the Application and render its recommendation on the proposed PUD district to the Town Board in writing. The Planning Board may recommend approval or disapproval of the PUD District Application, or make other recommendations. The Planning Board shall review the Application at its next regularly scheduled meeting after receiving the referral, provided the Planning Board receives the referral at least seven (7) calendar days before that meeting, otherwise the Planning Board shall review the Application at its regular meeting scheduled for the following month. The Planning Board shall thereafter promptly report its recommendation(s) on the proposed PUD district to the Town Board. In evaluating the Application and formulating its recommendations to the Town Board, the Planning Board shall consider the following factors:
 - (a) Whether the proposal meets the Town zoning and planning goals for the area in question;
 - (b) Whether the proposal meets the intent and objectives of this Article;
 - (c) Whether the proposal is conceptually sound and conforms to accepted design principles for any proposed functional roadway, wastewater treatment and disposal, pedestrian system, land use and configuration, open space system, and drainage system; and
 - (d) Whether there are adequate services and utilities available and/or proposed to be made available for the planned development.

- (2) Referral to the Seneca County Planning Board. The Town Board shall refer a full statement of the PUD District Application to the Seneca County Planning Board in accordance with New York State General Municipal Law § 239-m.

E. Public Hearing.

- (1) The Town Board shall conduct a public hearing on the PUD District Application after proper notice is given.
- (2) Notice of the public hearing must be published in a newspaper of general circulation at least five (5) calendar days prior to the date of the scheduled public hearing. Such notice shall contain the date, time, and place of the hearing as well as sufficient information necessary to identify the property(s) involved and the nature of the proposed action.
- (3) The public hearing shall not be held until after the Town Board completes the SEQRA review for the PUD District Application, which completion occurs upon the Town Board issuing either a negative declaration of significance or a Final Environmental Impact Statement with SEQRA Findings for the proposed project.

F. Determination. Within sixty-two (62) days of the close of the public hearing held pursuant to Section 2A.204(E), provided the Town Board has received the recommendations of the Town Planning Board and the Seneca County Planning Board, the Town Board shall consider those recommendations and render its decision to either approve or disapprove the PUD District Application (which includes the Development Plan). The Town Board must issue its final decision by written resolution. The Town Board must take into consideration the following factors in reaching its determination:

- (1) Nature of the proposed uses and the appropriateness of regulating those uses through a PUD district;
- (2) Relationship of the various uses to one another and their scale;
- (3) Adequacy and arrangement of traffic access and circulation including intersections, road widths, channelization structures, and traffic controls;
- (4) Adequacy and arrangement of pedestrian access and circulation including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic, and pedestrian convenience;
- (5) Location, arrangement, appearance and sufficiency of parking;
- (6) Location, arrangement, size and design of buildings, lighting and signs;
- (7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise deterring buffer between adjacent uses and adjoining lands;
- (8) Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features;

- (9) Location and adequacy of open space;
- (10) Adequacy of stormwater and sanitary waste disposal facilities;
- (11) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion;
- (12) Compliance with SEQRA;
- (13) Whether the proposed project creates a long-term community benefit for the Town; and
- (14) Conformance with the Town’s goals reflected in the Town Zoning Law and the Town Comprehensive Plan.

G. Conditions Relating to Financing. The Town Board may condition approval of the PUD District Application upon submission by the applicant of a letter of credit, performance bond, and/or other financial documentation demonstrating the adequacy of the applicant’s financial resources to complete the proposed development.

H. Architectural Requirements. The Town Board may require the exterior design of all structures be made by, or under the direction of, a registered architect whose seal shall be affixed to the plans. The Town Board may impose architectural style requirements so that the buildings and improvements within the project are internally harmonious and appropriate to the community as a whole.

I. Development Plan Modification. Any modification or amendment to an approved Development Plan must conform to the procedures set forth in this Section, including submission of an application for approval of a Modified Development Plan and subsequent review by the Town Board to reach a determination on the application. If the modification affects the boundaries of the PUD district or any of the authorized uses, the Town Board shall amend the local law establishing the PUD district and/or the Town Zoning Map in accordance with Section 2A.205 to reflect the changes.

Section 2A.205. ESTABLISHMENT OF A PUD DISTRICT AND ZONING MAP AMENDMENT

A. Within ninety (90) days of issuing its resolution approving the PUD District Application, the Town Board shall adopt a local law to establish and define the legal boundaries and authorized uses for the approved PUD district and to amend the Town Zoning Map to depict the district.

B. The Town Board shall enact the local law in accordance with the procedures set forth under the New York State Municipal Home Rule Law (MHRL).

- (1) Under the MHRL, the Town Board must hold a public hearing on a local law after giving proper notice of the hearing.
- (2) Notice of the public hearing must be published in a newspaper of general circulation at least five (5) calendar days prior to the date of the scheduled public hearing. Such

notice shall contain at least the date, time, and place of the hearing as well as sufficient information necessary to identify the property(s) involve and the nature of the proposed action.

- (3) A public hearing held on a local law to establish the PUD district and amend the Town Zoning Map may be held in conjunction with the public hearing on the PUD District Application under Section 2A.204(E). However, no public hearing on the local law may be held until after the necessary SEQRA review is complete.
- C. To the extent required under New York State General Municipal Law § 239-m, the Town Board shall refer any proposed local law to establish a PUD district and to amend the Town Zoning Map to the Seneca County Planning Board for review and recommendation. Notwithstanding any provision to the contrary in the Town Zoning Law, the Town Board shall not be required to refer any proposed local law to establish a PUD district to the Town Planning Board or the Town Zoning Board of Appeals for review and recommendation.
- D. A person whose PUD District Application is approved shall have one (1) year, measured from the date the Town Board enacts a local law establishing the PUD district for the project, to apply for Site Plan approval in accordance with Section 2A.206. Upon written request, the Town Board may extend the one-year period for submitting a Site Plan application, taking into consideration any reasonable facts and circumstances that led to the request for an extension. A person who fails to either apply for Site Plan approval or request an extension of time within the allotted one-year period is deemed to have abandoned its planned PUD and the Town Board may adopt a resolution revoking the approval of the PUD District Application for the project, after which the Town Board may adopt a new local law to remove the PUD district and revert the property to the zoning designation in effect immediately before the PUD District Application was approved.

Section 2A.206. SITE PLAN APPLICATION AND APPROVAL PROCEDURES

- A. General. An application for Site Plan approval for a PUD shall be submitted to the Town Board after the Town Board has adopted a local law establishing that PUD district. The Site Plan for a PUD district shall be consistent with the Development Plan approved for the PUD district.
- B. Site Plan Contents. The Site Plan shall be accompanied by the following information prepared by a licensed engineer, architect, and/or landscape architect:
 - (1) A topographic map showing contour intervals of not more than five feet of elevation.
 - (2) A Site Plan that contains the following information:
 - (a) Title of drawing and the name and address of the applicant;
 - (b) North point, scale, and date;
 - (c) Boundaries of the property plotted to scale;
 - (d) Existing watercourses;

- (e) A depiction of the location of: all buildings along with descriptions of their proposed uses and heights; the location of all parking and truck loading areas, with access and egress drives thereto; location and proposed development of all open spaces including parks, playgrounds and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal and location of such facilities; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for non-residential uses, if any; and
- (f) Any proposed signage in accordance with § 2A.207.

C. Agency Referral.

- (1) The Town Board shall refer the Site Plan application to the Town Planning Board for review and recommendation. The Planning Board shall review the Site Plan and render its recommendation to the Town Board in writing. The Planning Board may recommend approval, disapproval, or conditional approval. The Planning Board shall review the Site Plan at its next regularly scheduled meeting, provided the Planning Board receives the referral at least seven (7) calendar days before that meeting, otherwise the Planning Board shall review the Application at its regular meeting scheduled for the following month. The Planning Board shall thereafter promptly report its recommendation(s) on the Site Plan to the Town Board.
- (2) To the extent required under New York State General Municipal Law § 239-m, the Town Board shall refer the Site Plan application to the Seneca County Planning Board for review and recommendation.

D. Compliance with SEQRA. In its review and determination on the Site Plan application, the Town Board will comply with the provisions of SEQRA set forth under Article 8 of the New York State Environmental Conservation Law and its implementing regulations set forth at 6 NYCRR Part 617. If the Site Plan exceeds the thresholds for environmental impacts previously considered by the Town Board for the relevant PUD district during the review of the PUD District Application, then the Town Board shall conduct additional review of the proposal under SEQRA.

E. Site Plan Determination. Subject to compliance with the requirements of SEQRA, within sixty-two (62) days of receiving all information necessary to make its determination, the Town Board shall consider the recommendations of the Town Planning Board and the Seneca County Planning Board and render its decision to either approve, approve with conditions, or disapprove the Site Plan. The Town Board must issue its final decision by written resolution. The Town Board must take into consideration the following factors in reaching its determination:

- (1) Consistency with the approved Development Plan;

- (2) The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood;
- (3) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height;
- (4) The provision for pedestrian circulation and open space in the PUD district;
- (5) The traffic circulation features within the site, including the amount of, location of and access to automobile parking and terminal loading areas;
- (6) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards, such as inadequate sight distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes;
- (7) The provisions for storm, sanitary and solid waste disposal, and other utilities for the property;
- (8) The proposed landscaping and signage; and
- (9) The manner in which the physical design makes adequate provision for service demands (water, sewer, fire, etc.) and adequate traffic control.

F. Request for Changes in the Development Plan. If during review of the Site Plan it becomes apparent that certain elements of the Development Plan, as it has been approved by Town Board, are not feasible and need modification, the applicant shall then present its solution to the Town Board as its Site Plan in accordance with this Section. The Town Board shall then determine whether or not the Site Plan still aligns with the intent of the PUD district. If a negative decision is reached, the Site Plan shall be considered disapproved. The applicant may then, if it chooses, either:

- (1) Produce another Site Plan that conforms with the approved Development Plan; or
- (2) Apply to the Town Board for a modification of its approved Development Plan, in which case the applicant must submit a modified Development Plan meeting the requirements of Section 2A.204(B) and the Town Board shall follow the procedures under Section 2A.204(D)-(F) to determine whether to approve, conditionally approve, or disapprove the modified Development Plan. If approved or conditionally approved, the modified Development Plan shall supersede the original Development Plan and the Site Plan must be consistent with the modified Development Plan. If the modified Development Plan is disapproved, the originally approved Development Plan shall remain in force and the Site Plan the applicant submits must be consistent with it.

G. Staging. If the applicant wishes to stage its development, and it has so indicated in its Site Plan application, then it may submit only those stages it wishes to develop for Site Plan approval in accordance with its staging plan. Any plan which requires more than 24 months to be completed shall be required to be staged and a staging plan must be developed. It is the intent of this Article that individual stages of the PUD district will have an integrity of use in

their own right so that, if for any reason, the entire PUD district would not be completed, those portions of the PUD district already constructed will be an asset to the community by themselves. Staging plans must take in account this objective, and applicants proposing individual stages that deviate significantly from the overall character of the PUD district shall present evidence that such a stage is consistent with the Development Plan approved by the Town Board.

H. Zoning Permit and Certificate of Zoning Compliance.

- (1) PUD districts are subject to the requirements relating to Zoning Permits and Certificates of Zoning Compliance under the Town Zoning Law.
- (2) If a Zoning Permit application to allow construction of the building(s) or structure(s) in accordance with the approved Site Plan has not been filed within one (1) year after the date of the Town Board resolution approving the Site Plan, then the Site Plan approval shall be deemed revoked and vacated effective on the one-year anniversary date of the Site Plan approval resolution. The Town Board may extend the one-year period for seeking a Zoning Permit application, upon written request, taking into consideration reasonable facts and circumstances including the timing of any staging plan approved by the Town Board pursuant to Section 2A.206(G).

I. Site Plan Modification. Any modification or amendment to an approved Site Plan must conform to the procedures set forth in this Section, including submission of an application for approval of a Modified Site Plan and subsequent review by the Town Board to reach a determination on the application.

J. Exclusive Procedures. Notwithstanding any provisions to the contrary in the Town Zoning Law, the procedures set forth under this Section shall be the exclusive procedures by which a Site Plan for a PUD district is reviewed.

Section 2A.207. SIGN REGULATIONS

A. General. With the exception of signage for public and private institutional and recreational facilities, including a casino and casino complexes as permitted below in subsection (B), the approval of any signs shall be governed by the requirements of Section 5.512 of the Town Zoning Law.

B. Due to the unique signage associated with public and private institutional and recreational facilities, a PUD district approved for such use shall allow for a wide range of unique signage and building lighting not otherwise contemplated in the underlying zoning.

- (1) The following types of specialty signage may be authorized, subject to the approval of the Town Board, which shall confer with the Code Enforcement Officer (regarding any aspects related to applicable building codes and permits) and the New York State Department of Transportation (regarding any traffic safety hazard impacts):

- (a) blade signs and theater marquee signs;
 - (b) roof top parapet signs;
 - (c) façade projection signs (static or animated);
 - (d) animated electronic billboard signs;
 - (e) pinned-off letter signs;
 - (f) internally and externally illuminated signs;
 - (g) first and second surface signs applied to glazing or facades;
 - (h) banners;
 - (i) seasonal and special event building and site lighting;
 - (j) architectural building and site lighting to accent design features;
 - (k) animated, lighted fountains; and
 - (l) streetscape elements.
- (2) All specialty signage must be properly and fully maintained in good working condition at all times so as to not detract from the development's appearance.