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City of Conway, Arkansas
Ordinance No. O-09-69

AN ORDINANCE AMENDING ORDINANCE O-94-54 CITY OF CONWAY ZONING ORDINANCE BY REFERENCE, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES:

WHEREAS, The City of Conway would like to create new standards for the Planned Unit Development (PUD) zone, and;

WHEREAS, It is desirable to create a more streamlined, user-friendly, and publicly accessible PUD zoning process, and;

WHEREAS, It is desirable to create PUD zoning that encourages context sensitive zoning that is not possible through conventional zoning districts;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:

SECTION 1. That Ordinance O-94-54, the City of Conway Zoning Ordinance, as adopted on the 27th Day of September 1994, is hereby amended by readopting by reference Section 401.9 - Planned Unit Development, which was approved following notice as required by law, such amendment consisting of the amended text of which not less than three (3) copies have been and now are filed in the office of the City Clerk of the City of Conway, Arkansas.

SECTION 2. That all ordinances in conflict herewith are repealed to the extent of the conflict.

SECTION 3. That this ordinance is necessary for the protection of the public peace, health and safety, and an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 23rd day of June, 2009.

APPROVED:

Mayor Tab Townsell

ATTEST:

**Michael O. Garrett
City Clerk/Treasurer**

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SECTION 401.9 – PLANNED UNIT DEVELOPMENT

A. GENERAL DESCRIPTION

The Planned Unit Development (PUD) district is intended to accommodate context-sensitive developments that might otherwise be impractical or impossible to implement through traditional zoning. The PUD district may include variations in land use, setbacks, parking arrangements, and residential density and allow any alternative development standards that are necessary in order to address the subject property's unique characteristics. The PUD district benefits the community by: providing variety in the services and living environments available to the public; providing common open space and recreation areas; limiting disruption to traffic flow by coordinating ingress/egress points; and yielding a development whose character is harmonious with surrounding developments and the natural environment.

A Planned Unit Development request includes both a rezoning request and a specific development plan. In reviewing a proposed PUD district, the Planning and Development Department, Planning Commission, and City Council consider these components in tandem. Approval of a PUD district by the City Council includes approval of both the rezoning request and the specific development plan. The proposed project must also undergo Development Review (as outlined in Article 1101 of the Conway Zoning Ordinance) and upon approval be platted in accordance with the Subdivision Regulations.

B. PLANNED UNIT DEVELOPMENT REQUIREMENTS

Because a Planned Unit Development should be designed to function in a cohesive manner, the PUD proposal must include provisions for an internal sidewalk system, community space, and, typically, a Property Owners Association. Further, the location of the site in relation to existing roads, services, and neighborhoods must be taken into account. The Director of Planning and Development, the Planning Commission, and/or the City Council may require additional provisions.

1. Relation to Utilities and Major Roads

A Planned Unit Development district shall be so located in relation to sanitary sewer, water lines, storm drainage systems, other utility systems and installations, and major roads that neither extension nor enlargement of such facilities at public expense shall be necessary. However, PUD districts may be approved at locations lacking such services if the applicant makes provision to offset the cost of extension and/or enlargement of such services. In no case shall a PUD district create undue traffic burdens in residential neighborhoods outside the PUD district.

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2. Internal Street Network

A Planned Unit Development must include an internal system of streets, parking aisles, and/or cross access drives that can safely and efficiently accommodate vehicular traffic generated by the PUD. Where site conditions are sufficient, a gridded road network that provides maximum connectivity within the PUD is desirable.

3. Sidewalk System

All internal streets within a Planned Unit Development shall include pedestrian sidewalks, which shall be constructed in accordance with Section 1101 of the Zoning Ordinance.

4. Common Space

- a. Planned Unit Developments less than three acres. The incorporation of plazas, courtyards, pedestrian malls, and other outdoor spaces for people to gather is required. Permanent common open space shall occupy a minimum of five percent to 20 percent of the total project area. Common open space(s) shall be located in an area of the site which makes the space easily identifiable and accessible for public use. *Proximity and connectivity to existing public common space—such as parks, trails, greenbelts, playgrounds, and natural areas—shall be taken into consideration.* The common open areas should be sheltered as much as possible from the clamor of streets, parking, and other incompatible uses. All provided furniture, fixtures, water features, and other amenities shall be considered integral components of the development, shall maintain architectural compatibility, and shall be fully detailed on the required site plan.
- b. Planned Unit Developments three acres or larger. The incorporation of common open space is required. Permanent common open space shall occupy a minimum of 20 percent of the total project area. Common open space(s) shall be located in an area of the site which makes it easily identifiable and accessible for public use. *Proximity and connectivity to existing public common space—such as parks, trails, greenbelts, playgrounds, and natural areas—shall be taken into consideration.* The common open area(s) shall be devoted to lawn and/or green space exclusive of paved surface and should be sheltered as much as possible from the clamor of streets, parking, and other incompatible uses. All provided furniture, fixtures, water features, and other amenities shall be considered integral components of the development, shall maintain architectural compatibility, and shall be fully detailed on the required site plan.

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5. Property Owners Association

The Planned Unit Development proposal shall include provision for a Property Owners Association. (The City Council may waive the requirement for a Property Owners Association where extraordinary circumstances warrant such a waiver; an example of such a situation is a PUD with a sole owner.) The Property Owners Association shall be chartered in accordance with all local, state, and federal laws and regulations. The Property Owners Association shall consist of all persons and corporations owning property within the PUD. Maintenance of all common areas—including common open spaces, parking areas, and refuse facilities—shall be the responsibility of the Property Owners Association. Cost for such maintenance shall be divided proportionately among the property owners.

6. Plan Preparation

The Planned Unit Development proposal shall be reviewed and stamped by an architect, landscape architect or engineer licensed by the State of Arkansas.

C. PROCEDURES FOR OBTAINING PUD APPROVAL

1. Pre-Application Reviews

- a. Department Meeting. The applicant for the Planned Unit Development district shall, at the discretion of the Director of Planning and Development, present a **draft PUD proposal** to Planning and Development Department staff. The draft PUD proposal should at a minimum include a rough sketch of a site plan and an explanation of why a PUD district is necessary for the development to be implemented. The applicant should become familiar with the Zoning and Subdivision Ordinances prior to the scheduled Department Meeting. The Director of Planning and Development and staff will provide the applicant with comments and recommendations.
- b. Development Review Committee Pre-Application Conference. Following the Department Meeting, the Director of Planning and Development will schedule a Pre-Application Conference with the Development Review Committee, which consists of representatives of the Planning and Development Department, Street Department, Sanitation Department, Fire Department, and Conway Corporation. At the Director of Planning and Development's discretion, other relevant parties may be asked to attend the Pre-Application Conference and offer comments and suggestions. The applicant shall present a **development proposal** to the Development Review Committee. At a minimum, the development proposal shall include draft versions of the following: site plan, building elevations, descriptions of land uses, landscaping plan, street layout, and identification of common open

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spaces. Following the Pre-Application Conference, the Development Review Committee will submit written comments and suggestions to the Director of Planning and Development, who will incorporate all comments and suggestions into a single document for the applicant.

- c. Public Meeting(s). At the discretion of the Director of Planning and Development, the Director or designee shall schedule a Public Meeting at which time the applicant shall present the development proposal to all interested parties, including—though not limited to—neighborhood residents, property owners associations, neighboring business owners, City officials, and community groups. Notice of the public meeting shall be published on the City of Conway’s website at least 15 days prior to the meeting. A Public Hearing sign shall be conspicuously posted on the subject property at least 15 days prior to the public meeting. The Director of Planning and Development may require the applicant to provide additional notification of the public meeting. The Director of Planning and Development or designee shall determine whether the comments and suggestions received at the public meeting warrant an additional meeting. If the Director or designee makes a positive determination, the applicant shall meet with the Director or designee to attempt in earnest to amend the development proposal in a manner that is both feasible for the applicant and satisfactory to the interested parties. The applicant shall present the revised development proposal at a second public meeting. The Director of Planning and Development or designee shall determine whether additional iterations are necessary. The public meeting(s) does not relieve the applicant of any necessary public hearings required by local, state, or federal legislative bodies or regulatory agencies.

2. Planned Unit Development Application Submittal

- a. Procedure. Upon completion of all pre-application reviews, the applicant may proceed in preparing the *Application for a Planned Unit Development* for the Conway Planning Commission. The application shall be processed following the procedure for a change of zone district boundary as set forth in Article 901.4, excepting fees.
- b. Fees. All Planned Unit Development filing fees are non-refundable and must be paid to the Conway Planning and Development Department at the time application is made. Filing fees will be credited towards Development Review fees.
 - i. Residential. A filing fee of five hundred and twenty-five dollars (\$525.00) must be paid by applicant at the time of submission for a residential PUD of ten or fewer units. A filing fee of seven hundred and twenty-five dollars (\$725.00) must be paid by applicant at time of submission for a residential PUD of 11 to 25 units. A filing fee of one

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thousand one hundred and twenty-five dollars (\$1,125.00) must be paid by the applicant at the time of submission for a residential PUD of 26 or more units.

- ii. Non-residential. A filing fee of one thousand one hundred and twenty-five dollars (\$1,125.00) must be paid by the applicant at the time of submission for a non-residential PUD application. For the purpose of fee calculation, a PUD containing any non-residential component will be assessed as a non-residential PUD.

- c. Application Requirements. *The Application for a Planned Unit Development* must be accompanied by a **development plan report** consisting of a site plan, explanatory text, and necessary exhibits. The development plan should expound upon the initial development proposal by incorporating the comments provided by the Director of Planning and Development or designee. The development plan report must at a minimum include the following: description of existing conditions; clarification of the purpose and intent of the PUD; list of allowable land uses, height and size of proposed building types, and site-specific development standards; charts indicating development phasing and construction schedule; and covenants and restrictions. All items must be submitted at the time of application for the PUD application to be deemed complete for review. Any omission of a required submittal item shall be identified and the reason for omission explained in the development plan report, including any application submittal waivers granted by the Director of Planning and Development. The PUD may be constructed in multiple phases of construction. In such cases, the applicant shall clearly indicate the boundaries of each proposed phase on the site plan.

- d. Public Notice of Planning Commission Hearing. Prior to the Planning Commission's review of the PUD application, **sufficient notice of a public hearing for rezoning** shall be furnished in accordance with state law and per the public hearing procedure outlined in Article 901.4(C)(3) of the Conway Zoning Ordinance.

- e. Planning Commission Action. At its regular monthly meeting, the Planning Commission shall review the PUD application and accompanying development plan report. Additionally, the Planning Commission shall conduct a public hearing at which time the applicant, as well as members of the community, may address the Commission. The Planning Commission shall take one of four actions: send the rezoning request to the City Council with a positive recommendation; send the rezoning request to the City Council with a negative recommendation; send the rezoning request to the City Council with no recommendation; or hold the rezoning request in committee pending additional information or clarification from the applicant.

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- f. City Council Consideration. Upon receiving the PUD recommendation from the Planning Commission and reviewing the PUD application and development plan report, the City Council shall consider an ordinance establishing a PUD district. The City Council shall take one of three actions: approve the PUD request as recommended by the Planning Commission; approve the PUD request with amendment(s); or deny the PUD request.

- g. Development Approval and Permits. Approval of a PUD request shall be contingent upon the submission of an approved final plat and compliance with all other federal, state, and local requirements. Approval of a PUD district does not relieve the applicant of any subdivision plat, final site plan, building permit, or separate overlay district requirements. Except as specifically provided for in the individual PUD ordinance, all development shall be undertaken in conformance with adopted departmental rules and procedures. Where specific amendments to departmental rules and procedures have been included in the adopted PUD ordinance, all reviews shall be conducted and permits shall be issued in conformance with the provisions of the approved PUD development plan. However, no rule or procedure amendment shall be implemented if it would vacate or violate any federal or state requirement.

3. Preliminary Plat

Upon approval of the PUD request by the City Council, the applicant shall submit a final development plan report to the Planning and Development Department for review. After the final development plan report is submitted, a preliminary plat shall be prepared in the manner prescribed in the Conway Subdivision Regulations. Minor plats may receive departmental approval. Major plats shall be reviewed by the Planning Commission.

4. Development Review

Upon approval of both the development plan and the final plat, the applicant may submit the project to the Planning and Development Department for Development Review. (See Article 1101 of the Zoning Ordinance and the *Design Standards Pattern Book* published by the Conway Planning and Development Department for more information on Development Review.) The Development Review process must be completed before the applicant can apply for or obtain any building permits from the City of Conway.

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D. PROCEDURES FOR AMENDING A PUD PLAN

If, during the course of the implementation of a Planned Unit Development, the applicant and/or developer find it necessary or desirable to modify the approved development plan, the applicant and/or developer may request a PUD amendment. Such request shall be made in writing to the Director of Planning and Development, who will determine whether the requested modification meets the criteria of a minor modification or major modification. All modifications must be consistent with the intent of this ordinance. (See Section A, *General Description*.)

1. Minor Modifications

Minor modifications are granted administratively by the Director of Planning and Development and do not require legislative action. For a requested modification to be classified as minor, the modification must: alter one or more provisions of the development plan; not expand the types of land uses specifically allowed in the approved development plan; not change the character, function, or number of driveways or streets approved in the development plan; not cause any foreseeable significant increase in traffic volume or result in any foreseeable negative impacts on traffic flow; not significantly reduce the amount and/or distribution of common open space; and not create any significant change to the nature or character of the approved development.

2. Major Modifications

Major modifications are tentatively granted by the Director of Planning and Development and require City Council notification. A modification that would result in any of the following will be deemed major: expansion of the types of land uses specifically allowed in the approved development plan; change in the character, function, or number of driveways or streets approved in the development plan; foreseeable significant increase in traffic volume or foreseeable negative impacts on traffic flow; reduction in the amount and/or distribution of common open space; or any significant change to the nature or character of the approved development. Additionally, the Director of Planning and Development may elect to follow the method for major modification approval for any modification of any lesser magnitude, particularly if such modification is deemed to be in the public interest.

a. Major Modification Approved by Director of Planning and Development.

The Director of Planning and Development may approve the major modification and grant the request.

- i. City Council Notification: If the Director of Planning and Development grants the requested major modification, he/she must notify all City Council members on the same day that the modification is granted. The notification must be delivered by letter, email, telephone contact,

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placement of a notice in each Councilperson's mailbox at City Hall, or another manner approved by the Mayor.

- ii. City Council Objections: If any individual City Council member objects to the major modification, the Council member must notify the Director of Planning and Development of such objection within no less than five (5) working days from the date of the Director's decision to grant the request. Upon receiving an objection from a Council member, the Director shall refer the major modification request to the Planning Commission for review at the next scheduled meeting of the Planning Commission.
 - (a) Planning Commission Approval. After reviewing the major modification request, the Planning Commission may grant the request.
 - (b) Planning Commission Denial. After reviewing the major modification request, the Planning Commission may deny the request. If the Planning Commission denies the major modification request, the applicant may appeal the decision to the City Council by submitting a notice of appeal to the Planning and Development Department no less than thirty (30) working days from the date of the Planning Commission's decision. The appeal shall be placed on the agenda of the next scheduled meeting of the City Council. The City Council's decision is final.
- b. Major Modification Denied by Director of Planning and Development. The Director of Planning and Development may deny the major modification request. The Director's decision may be appealed to the Planning Commission by notifying the Planning Commission of such appeal no less than thirty (30) working days from the date of the Director's decision to deny the major modification request.
- 3. Planning Commission Approval. After reviewing the major modification request, the Planning Commission may grant the request.
- 4. Planning Commission Denial. After reviewing the major modification request, the Planning Commission may deny the request. If the Planning Commission denies the major modification request, the applicant may appeal the decision to the City Council by submitting a notice of appeal to the Planning and Development Department no less than thirty (30) working days from the date of the Planning Commission's decision. The appeal shall be placed on the agenda of the next scheduled meeting of the City Council. The City Council's decision is final.

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3. Additional Rules Regarding Modifications

- a. Public Hearing. The request for a major modification shall not subject the entire development plan to a public hearing. Only the portion(s) of the development plan necessary to evaluate the major modification request under consideration is (are) subject to any required public hearing(s).
- b. Precedent. Minor and major modifications shall be considered unique and shall not set precedent for other developments.

E. PROJECT COMPLETION

At its discretion, the Planning Commission may periodically review the Planned Unit Development project's implementation status. If the Planning Commission determines that the PUD is not being implemented in accordance with the final development plan, the Planning Commission may recommend that the City Council review the progress of the project. The City Council may allow implementation of the project to continue uninterrupted, may require the applicant and/or developer to submit a revised development plan, or may take any other reasonable action to ensure that the subject property is not developed in an inappropriate manner.