
2.26 Planned Area Development (PAD) Overlay

I. INTRODUCTION

A. Purpose

The Planned Area Development (PAD) Overlay is designed to provide uniform criteria for Town approval of PAD's within the boundaries of the Town of Merrimac. The criteria will allow for development densities greater than the minimum lot sizes provided in other sections of the Town of Merrimac Zoning Ordinance. These criteria apply to new PAD's, commercial, residential, or mixed usage on undeveloped lands, redevelopment of previously built sites, or conversions of existing buildings and land uses.

The PAD designation is intended to provide for medium and large-scale residential and/or mixed use development. It is especially applicable to a development in which a number of different land uses, for example, residential, commercial, open space, etc., are combined in a design which provides for

desirable and convenient living conditions and which minimizes conflicts between the various land uses involved.

PAD's must be designed and operated to be compatible and harmonious with surrounding properties and land uses, and must be in compliance with the Town Zoning Ordinance as determined by the Plan and Zoning Commission and Town Board. It is the intent of the Town of Merrimac Ordinance to provide the Town the flexibility to review, modify, and approve developments and to optimize and standardize development opportunities for potential developers within the framework of appropriate Town of Merrimac ordinances.

B. Definition

Planned Area Developments (PAD's) are defined as multiple residential or commercial dwelling units including but not limited to townhouses, condominiums, apartments, motels, hotels, resorts, and related commercial and recreational facilities. PAD's shall have a density limit of 5 units per acre with a maximum average overall density of 1 unit per acre. PAD's shall consist of developments which contain 3 or more residential uses on a single property or any nonresidential use.

- 1) Bluffline: A line connecting the points along a contour at the top of a slope where the gradient becomes more than twelve percent with the horizontal interval of measurement landwards from the bluff face not exceeding fifty feet. The location of the bluffline shall be certified by a registered land surveyor, soil scientist, or landscape architect.
- 2) Common Open Space: Open space which is held in joint use and trust by certain members of a property owner's association, development, or portion of a development. Common open space includes designated green spaces, blufflines, shoreline, and shared yards. The character of all common open space as approved of in the development plan must be prepared and protected by legally binding means. (See open space and public open space.)
- 3) Dwelling Unit: A building or portion of a building having living space arranged, designed, used, or intended for one family or household. Examples of dwelling units include single family detached home and individual apartment, townhouse, or condominium living spaces.
- 4) Lot: A parcel, piece, or portion of land, defined by metes and bounds, certified survey, or recorded land subdivision plat and separated from other lots, parcels, or similar land units by such definition.
- 5) Open Space: That area extending from the ground surface to an indefinite altitude above which is unimpeded by a structure, or man-made

surface incapable of supporting vegetative growth. All open space must be preserved and protected by public dedication and acceptance, deed restrictions, restrictive covenants, or other legally binding means. (See common open space and public open space.)

- 6) Public Open Space: Open space made available for use by all members of a property owner's association or development, as well as the general public. Public open space includes school yards, play grounds, parks, and recreation areas. The character of all public open space as approved in the development plan must be preserved and protected by legally binding means. (See open space and common open space.)
- 7) Shoreline: Frontage on the Wisconsin River (Lake Wisconsin). Development must conform to the State of Wisconsin Shoreline Protection Act.
- 8) Yard Wastes: Vegetative residue from gardening and lawn maintenance activities. Yard wastes shall not be contaminated by garbage, refuse, woody material, or other wastes. Examples of yard wastes include leaves, grass clippings, and garden trimmings.

C. Location

Planned Area Developments are permitted as uses in all zoning districts except Agricultural Conservation District. Plans for a proposed development shall be submitted to the Planning and Zoning Commission in the manner outlined in Section II below.

D. Densities

Residential dwelling units shall be restricted to a maximum of five (5) units per gross acre with an average overall density of one (1) unit per acre. Residential dwelling units shall include townhomes, condominiums, apartments, temporary commercial lodging facilities, e.g., motels or hotels.

E. PAD General Review Criteria

The following criteria shall be applied to every proposed planned area development as a basis for determining its consistency with the letter and spirit of this Ordinance, as determined by the Planning and Zoning Commission and Town Board.

- 1) Its compatibility with the site, with particular emphasis on the preservation of natural features and the use of open space.
- 2) Its overall compatibility with existing land uses in the vicinity and with probable future land uses in the vicinity.

- 3) The internal compatibility of the various land uses proposed to be included within the development.
- 4) Its compatibility with existing and probable future transportation facilities in the vicinity, and its tendency to increase the demand upon those facilities.
- 5) The provision of adequate internal, circulation facilities, including streets and parking facilities within the development.
- 6) Its compatibility with existing and probable future provisions of public utility services such as sewer and water facilities and its tendency to increase the demand upon those facilities.
- 7) Its compatibility with existing and probable other public services, such as schools, police protection, fire protection, street maintenance, etc. and its tendency to increase the demand upon those services.
- 8) The provision of adequate open space, the preservation of existing public access to streams and bodies of water, the preservation of environmental and aesthetic values, and the provision of adequate and appropriate arrangements for the continuing preservation of the aforesaid features, including legal restrictions and other legal devices, and the provision of adequate and appropriate institutional arrangements for continued maintenance.
- 9) The long-term economic stability of the proposed development, and its economic impact on other properties in the vicinity.
- 10) The presentation of an adequate and practicable implementation schedule for completion of the development, whether by stages or all in one period, in order to ensure that the adverse results of failure to complete the development may be effectively avoided.
- 11) Its conformance with provisions of the Sauk County Zoning Ordinance.
- 12) The Planning and Zoning Commission may waive, delay or modify the application of the specific requirements of this Ordinance or the Town of Merrimac Zoning Ordinance which would otherwise apply to the proposed development upon a showing by the applicant that the requested waiver is essential to the development and does not materially alter the character of the development and intent of this Ordinance. The Town Board may attach conditions to any waiver, delay or modification.

F. Planned Area Development Design Criteria

- 1) Structures, roads, parking areas, and supporting facilities such as wastewater treatment plants shall be designed and placed so as to be visually unobtrusive to the natural environment and surrounding properties.
- 2) Dwelling units, recreational facilities, and commercial uses must be clustered into one or more groups and located on suitable areas of the development site.
- 3) At least 50% of the total PAD development area must be designated as open space for the users and residents of the development. Such open space may include common open space, public open space as well as yards associated with private dwellings. Road rights-of-way, land covered by road surfaces, parking areas, units, and structures are considered development areas and shall not be included in the computation of minimum open space.
- 4) The appearance of open space areas, including topography, vegetation, and allowable uses must be preserved by the use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
- 5) Areas with physical characteristics unsuitable for development in their natural state, such as wetlands or areas containing significant historic sites shall be considered open spaces.
- 6) Residential dwelling units shall be restricted to a maximum of five (5) units per gross acre with an average overall density of one (1) unit per acre. Residential dwelling units shall include town-homes, condominiums, apartments, temporary commercial lodging facilities, e.g., motels or hotels.
- 7) The development must provide access to all established public roadways that bound it.

G. Specific Design Requirements

- 1) Sewage Disposal Standards: All wastewater treatment facilities shall be designed, installed, and operated to meet or exceed applicable standards or regulations of the Department of Natural Resources or the Department of Industry, Labor, and Human Relations, as well as local units of government.

Public water and wastewater services must be used where available. If public water and wastewater facilities are not available, centralized facilities servicing as many connections as possible shall be used where feasible.

All new construction must utilize water conserving plumbing fixtures such as low volume flush toilets and restricted flow shower heads. Water use meters shall be installed for the monitoring of water usage and wastewater disposal.

All septic systems shall be identified in the Project Development Plan. All dwelling units and facilities must be located on sites suitable for the construction of septic systems as set forth in DILHR 83.

No occupancy of any unit or use of any structure shall be allowed until the approved sewage disposal system is in place and fully operational.

Holding tanks shall not be allowed in any PAD development.

- 2) Solid Waste Disposal Standards: PAD developers shall make provisions for the efficient storage, collection, transportation, and disposal of solid waste in an environmentally acceptable manner.

The developer of a PAD shall provide for source separation of recyclable materials including glass, metals, paper, and plastic from residential units, commercial facilities, and recreational facilities and other uses within the development. Source separated recyclables shall be clean and prepared as appropriate. Provisions must be made for the collection and transportation of source separated recyclables to an approved market of recycling center on a regular schedule.

Yard wastes shall be prohibited from being disposed of with solid waste. Provisions shall be made for the collection and transportation of yard wastes to an approved composting site on a regular schedule.

- 3) Surface Water Run-Off: In each land use classification within a Planned Area Development, coverage by impervious surfaces shall not exceed 30%, unless a surface water run-off plan certified by a registered professional engineer is submitted and approved by the Town Board and the Soil Conservation Service or Land Conservation District. The surface water run-off plan shall contain, provisions for sediment entrapment and erosion control. Off-site run-off will be limited to predevelopment rates based on 100 year storm event as per certified by professional engineers.
- 4) Public Utilities: Service lines for telephone and electric service shall be installed underground wherever possible. Utility lines carried on poles shall be placed in rear lot lines easements if deemed necessary.

Where telephone, electric and gas service lines are to be placed underground, they shall be located in easements or dedicated public ways, in such a manner so as to not conflict with other underground

services such as water supply and wastewater disposal. Such utilities shall not be installed underneath the road surface unless approved by the Planning and Zoning Commission.

- 5) Floodplain Restrictions: All development within a PAD shall adhere to appropriate federal, state, and local floodplain regulations.
- 6) Roadways: The full width of the right of way shall be constructed in accordance with standards set forth by the Town. All road surfacing of such roadways shall adhere to standards set forth by Wisconsin Department of Transportation and Sauk County Highway Department and the Town of Merrimac.

Except for designated cul-de-sacs and private drives, the Development Plan shall provide that roadways shall connect with roadways already dedicated in adjoining properties. The arrangement and construction of roadways shall be determined in relation to expected traffic patterns and densities, topographical conditions, storm water run-off, public convenience and safety.

Each tract, lot, or unit use within a PAD shall be arranged to permit the orderly and efficient location of future roadways, access roadways, and driveways, with consideration for future utility services.

Public roads shall be designed to intersect at right angles, except where topography or other conditions prohibit right angle intersections. The minimal angle of intersection of roads shall be 80 degrees. Road intersections with offsets of less than 150 feet shall be prohibited.

Wherever the proposed planned area development contains or is adjacent to a State or Federal highway, provisions shall be made for an access street or road approximately parallel to and adjacent to the highway.

Minor roadway access to State and Federal highways shall be at intervals greater than 1,000 feet.

All private roadways must have specific and detailed plans for maintenance including repairs, right-of-way grooming, and snow removal, parking restrictions, fire lanes, and warnings.

The Planning and Zoning Commission may approve of a private roadway for a designated period of time prior to the County or the Town assuming maintenance responsibilities. The County or Town shall not be required to assume maintenance responsibilities.

Road signs of standard design shall be installed where appropriate.

- 7) Scenic Impact: The reviewing body shall consider the impact that each phase will have on vistas and views. Both aesthetic and environmental concerns shall be considered.

H. Discrimination Against Condominium Forms of Ownership

It is not the intent of this Ordinance to discriminate against condominium forms of ownership in any manner which conflicts with Wisconsin Statutes 703.27. As such, the provisions of this Ordinance are designed to ensure that condominium forms of ownership are subject to the same standards and procedures of review as other physically identical forms of development. As such, condominium projects shall be subject to the provisions of the Land Division Ordinance as though they are a physically identical form of development which is subject to the Land Development Ordinance.

II. PROCEDURE FOR OBTAINING APPROVAL FOR A PLANNED AREA DEVELOPMENT

A. General Concept Plan Approval

- 1) Concept Plan: The purpose of the Concept Plan Approval is to provide the Applicant with an opportunity to submit a concept plan to the Town for review. The plan will show the basic intent and the general nature of the development in schematic plans and sketches containing the information outlined in Section 3 below.
- 2) Review and Approval of Concept Plan: Following conferences with the Town Zoning Administrator and the Town Planning and Zoning Commission, the Concept Plan shall be submitted to the Town of Merrimac Planning and Zoning Commission. The Planning and Zoning Commission shall schedule a hearing within 45 days of receipt of the Concept Plan for the purpose of reviewing the proposed Concept Plan. The primary purpose of the hearings will be to provide the Applicant with an opportunity to obtain guidance as to the general suitability of the proposal for the area which it is proposed and to provide the Town with a broad overview of the project. The Concept Plan process is designed to provide an opportunity to the applicant to have the proposed development reviewed without incurring substantial costs.

The Open Meeting Law applies to all application review procedures established in this Ordinance.

- 3) Contents of Concept Plan: The following information must be included in the Concept Plan submittals.
 - a) Proposed new zoning (if any);

- b) Proposed densities;
 - c) General location of major streets and pedestrian ways;
 - d) General location and extent of public and common open space;
 - e) General location of residential and nonresidential land uses and approximate type and development intensities;
 - f) Staging and time schedule of development (phasing schedule); and
 - g) Other special criteria for development.
 - h) (a-e) for all surrounding properties within 1500 feet.
- 4) Effect of General Concept Plan Approval: Approval of the General Concept Plan shall not prevent the Town from denying Development Plan approval. The General Concept Approval does not establish any right to a PAD approval. General Concept Approval indicates that the applicant may proceed with the PAD application process. The Planning and Zoning Commission may request additional information in the General Concept stage and delay General Concept Plan approval until such information is provided.

B. Planned Area Development Application and Development Plan Submission.

- 1) Application: The developer shall complete a PAD application form and submit it along with all required supporting data in the Development Plan, to the Planning and Zoning Commission.
- 2) Fee: The Town Board or Planning and Zoning Commission may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the Town's review of a proposal coming before the Planning and Zoning Commission. The Town may apply the charges for these services to the Petitioner. The Town may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until such fees are paid by the Petitioner. The submittal of a development proposal application or petition by a petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal.
- 3) Public Hearing: Upon receipt of such application, the Planning Commission shall call a public hearing within 60 days. Notice of the time and place of such hearing shall be given by publication in the county of a class two notice under Wisconsin Statutes Chapter 985. Property owners

within a quarter mile of the proposed PAD district shall receive notice of the public hearing by U.S. mail.

- 4) Application Contents - Development Plan: Eight copies of the PAD application and the Development Plan shall be submitted to the Planning and Zoning Commission.

The Development Plan must explain every phase of the PAD, how and when each phase will be implemented, and the relationships between each phase. The Development Plan must be a comprehensive document that adequately details phases of construction and the impacts of each phase as well as the impact of the project when all phases have been completed. Any material or substantial change from the Development Plan which would alter the character of the development or the intent of the PAD Ordinance or other Town Ordinance will require the re-application and public hearing with Class 2 notice. Minor changes will require Planning and Zoning Commission approval. The developer must therefore undertake a complete planning process in order to prepare an adequate Development Plan for submittal.

Each copy of the Development Plan shall be suitably bound and contain, at minimum, the following elements:

- a) An introductory section describing the project in general terms;
- b) Each affected landowner's name and address and the interest in the subjects' property;
- c) Developer's name and address if different from the landowner;
- d) The names and addresses of all professional consultants who have contributed to the development of the PAD plan being submitted, including attorney, land planner, engineer and surveyor;
- e) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PAD including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title;
- f) The legal description of the property;
- g) The existing zoning classification and present use of the subject property and all lands within contiguous 40 acre section of the property;

- h) A map depicting the existing development of the property and all land within a quarter mile thereof and indicating the location of existing streets, property lines, easements and improvements;
- i) A description of the proposed development and the market which it is intended to serve and how the proposed development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with any applicable regulations;
- j) Existing conditions: Graphic reproductions of the existing site conditions at a scale of one inch equals 100 feet:
 - 1) Contours; minimum of 2 foot intervals;
 - 2) Location, type and extent of tree cover;
 - 3) Slope analysis;
 - 4) Location and extent of water bodies, wetlands and streams and flood plains within 300 feet of the property;
 - 5) Rock outcroppings;
 - 6) Drainage patterns; and
 - 7) Vistas and significant views.
- k) Developed conditions: Schematic drawings of the proposed development, including but not limited to the general location of major circulation elements, public and common open space, single-family, multi-family, commercial, and all other proposed land uses. A narrative account detailing changes or development which would have an impact on existing site conditions identified in B(4)(j) shall also be included.
- l) A schedule for the development of each phase shall be submitted stating the approximate beginning and completion date for each such phase. The proportion of the total PAD public or common open space and the number of dwelling units to be provided or constructed during each phase and overall chronology of development to be followed from phase to phase shall also be provided.
- m) Schematic grading, drainage, erosion control, and surface water runoff control plans for the developed PAD. Such plans will require the review and approval by the Soil Conservation Service.

- n) Schematic utilities plans indicating placement of electrical lines, water lines, sanitary sewer, and storm sewers.
- o) Statements delineating the following topics shall be included in the Development Plan:
 - 1) Location, description and total area devoted to residential uses;
 - 2) Location, description and total area devoted to residential use by building type;
 - 3) Location, description and total area devoted to common space, which shall include open space designed for the exclusive use of townhouse and condominium occupants;
 - 4) Location, description and total area proposed to be made available for public open space, including parks, playgrounds, school sites, and recreational facilities;
 - 5) Location, description and total area devoted to streets and roadways;
 - 6) Area devoted to, and number of, off-street parking and loading spaces and related access;
 - 7) Location, description and floor area, devoted to commercial uses;
 - 8) Location, description and floor area, devoted to commercial or office use;
 - 9) Proposed name of the development;
 - 10) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
 - 11) Estimated residential population during each phase of the project;
 - 12) Estimated traffic counts on project's roadways and on Town and County roadways leading to the project;
 - 13) Proposed fire protection measures;
 - 14) Facility plans for the treatment of all combined wastewater sources;
 - 15) Evidence that all applicable state and federal permits have been obtained or applied for.

- 16) Evidence of the availability of the necessary public utilities;
 - 17) A tabulation of the allocation of land use classifications expressed in acres and as a percentage of the total project area;
 - 18) Plans for how the project will be operated and maintained during each phase of construction and when final construction is completed;
 - 19) Nature of proposed ownership after completion;
 - 20) Preliminary building plans indicating uses and proposed exterior wall finishes;
 - 21) Proposals for financial arrangements that will be made to protect local units of government from financial liability; and
 - 22) Indian mounds and their protection.
- p) Ten copies of a preliminary plat adhering to requirements of Wisconsin Statutes, Chapter 236, shall also be submitted with the Development Plan, which shall receive concurrent review and consideration.

C. Development Plan Approval

1) Approval With Conditions:

a) Review by Planning and Zoning Commission

The Planning and Zoning Commission shall review the PAD application, the Development Plan, the preliminary plat, any recommendations from the Zoning Administrator and expert consultants, and comments from the public hearing. After this review the Planning and Zoning Commission shall recommend that the Town Board approve or disapprove the application. The Planning and Zoning Commission may recommend approval with conditions.

b) Town Board Approval

After reviewing the Planning Commission's recommendation, the Town Board shall approve or disapprove the application. The Town Board may attach additional conditions to any approval. If approval is granted subject to conditions, the applicant shall notify the Planning and Zoning Commission in writing of its acceptance or rejection of the conditions. Refusal by the applicant to accept all the

conditions constitutes denial of the plan. Failure of the applicant to provide notification of acceptance or denial constitutes acceptance of the conditions.

- 2) Effect of Development Plan Approval: Approval of the Development Plan shall authorize the issuance of a Planned Area Development Permit and shall establish the applicant's basic right of use for the area. Such approval and use shall be conditional upon conformity to the approved Development Plan as determined by final approvals of each phase of development. Any material or substantial change from the Development Plan which would alter the character of the development or the intent of the PAD Ordinance or other Town Ordinance will require re-application and public hearing with Class 2 notice. Minor changes will require Planning and Zoning Commission approval.
- 3) Development Agreement: As an element of the approval of the Development Plan, a Development Agreement between the Town of Merrimac and the developers shall be signed by both parties. Terms of the binding Development Agreement shall state obligations of both parties and may contain provisions considered necessary by the Planning and Zoning Commission in order to ensure compliance with the approved Development Plan and preliminary plat.

D. Final Development Approval: Development Stage

- 1) Submittals for Development Stage: Prior to commencing construction or development of each phase, the applicant will request approval of a development stage submittal which will detail the proposed implementations of the Concept Plan and Development Plan in the phase to be developed. Ten copies of the Development Stage Plan shall be submitted to the Planning and Zoning Commission which shall include:
 - a) A final plat containing:
 - 1) Proposed name of the development;
 - 2) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
 - 3) The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, and existing buildings which will remain, if any;
 - 4) Location and dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other

circulation elements including snowmobile, bike and pedestrian;
and the total site coverage of all circulation elements;

- 5) Location, description and total area of all common open space;
 - 6) Location, description and total area proposed for public open space, including parks, playgrounds, and recreational facilities;
 - 7) Proposed lots and blocks, if any, and numbering system, which shall conform to the Sauk County numbering system;
 - 8) The location, use and size of structures and other land uses on adjacent properties;
 - 9) Detailed sketches and provisions of proposed landscaping; and
 - 10) Easements, rights of way, and utility lines and facilities;
 - 11) The final plat shall adhere to all requirements of Wisconsin Statutes, Chapter 236 and Town of Merrimac Ordinances.
- b) An accurate legal description of the entire phase within the PAD for which final development approval is sought.
 - c) A tabulation indicating the number of residential dwelling units and expected population.
 - d) A tabulation indicating the gross square footage, if any, of commercial floor space by type of activity.
 - e) Final architectural plans and drawings indicating use, floor plan, elevations and exterior wall finishes of proposed buildings.
 - f) Detailed grading and site alteration plans illustrating changes to existing topography and natural site vegetation. The plans should clearly reflect the site treatment and its conformance with the approved concept plan. The grading and site alteration plans must be reviewed and approved by the Soil Conservation Service.
 - g) A detailed erosion and storm water run-off control plan clearly illustrating control measures to be used during construction and as permanent measures.
 - h) Restrictive covenants or other mechanisms that are to be recorded with respect to the property in the phase to be developed to assure compliance with provisions in the Development Plan. Copies of

Homeowner Association agreements, where applicable, shall also be submitted.

- i) Details for performance bonds, escrow agreements or other financial arrangements to be implemented to protect local units of government from financial liability for site restoration, landscaping, erosion control measures, sewage disposal facilities, and other features of the development deemed by the Planning and Zoning Commission as presenting unacceptable risks for local units of government.
- 2) Approval of Development Stage Submittals: Following receipt of the Development Stage submittals, the Planning and Zoning Commission shall review the submittals to determine if the proposed phase of development is in compliance with the Development Plan previously approved and to determine if all of the necessary State and Federal permits have been obtained. The Planning and Zoning Commission may recommend that the Town Board approve or disapprove the Development Stage submittals. The Planning and Zoning Commission may recommend approval with conditions. If the Town Board approval is granted subject to conditions, the applicant shall notify the Planning and Zoning Commission in writing of its acceptance or rejection of the conditions. No development or construction may commence until the Development Stage submittals are approved by the Planning and Zoning Commission.
- 3) Commencement of Construction: The Town Zoning Administrator and Town Clerk shall receive written notification when construction of each phase shall begin. Construction of each phase shall adhere to the approved Development Plan. Any material or substantial change from the Development Plan which would alter the character of the development or the intent of the PAD Ordinance or other county or Town ordinances will require reapplication and public hearing with Class 2 notice. Minor changes will require Planning and Zoning Commission approval. The Planning and Zoning Commission may or may not approve the revised Development Plan, or may approve it with conditions.

The developer shall apply for a Town building permit and pay the required fee for each phase of construction. The Zoning Administrator will issue the building permits if construction plans adhere to the approved Development Plan.

- 4) Completion of Construction: The Town Zoning Administrator and the Town Clerk shall be notified in writing by the developer or the developer's contractors when construction of each phase is near completion. The Town Zoning Administrator shall then inspect the completed construction and issue a Certificate of Compliance if construction is in compliance with the approved Development Plan.

Items not in compliance shall be corrected by the developer within 90 days. No structure or use shall be occupied unless a Certificate of Compliance has been issued.

- 5) Annual Report and Review: The developers shall submit an annual report to the Planning and Zoning Commission on or before January 31st for the preceding calendar year. The annual report shall document progress made in planning and construction, as well as any problems encountered. The annual Report shall then be reviewed by the Planning and Zoning Commission. Failure by the developers to submit an annual report or to gain approval of an annual report will block the granting of further permits until such annual report is submitted and approved.

III. SUBMITTAL AND CONSTRUCTION TIME FRAMES

- A. After obtaining Concept Plan approval, the developer shall submit a complete application for a PAD approval and the accompanying Development Plan within 12 months.
- B. The Planning and Zoning Commission shall have up to 120 days to review the PAD District application, Development Plan, hold the necessary hearings, and issue a decision on the application. When additional information is required by the Planning and Zoning Commission from the applicant or from experts hired by the Town, the deadline for issuing a decision shall be extended until 30 days after receipt of all such information.
- C. After Development Plan approval has been granted by the Planning and Zoning Commission, the developer shall have 12 months to start construction or start construction of the first phase if the project incorporates phased construction.
- D. After the developer notifies the Zoning Administrator and Town Clerk in writing that construction of a phase is nearing completion, the Zoning Administrator shall have seven days to make compliance inspections and issue or deny a Certificate of Compliance. A Certificate of Compliance shall be denied if construction has not proceeded to a point where compliance with the Development Plan can be determined. Approvals or denials will be submitted to the developer in writing.
- E. Construction of each use approved in each Development Stage shall be completed within five years of Development Plan approval.
- F. Any construction contemplated ten years after Development Plan approval will require a new application.

IV. ENFORCEMENT

A. Bonds: The Planning and Zoning Commission may require a performance bond, certificate of deposit, letter of credit, or other form of financial assurance must be filed with the Town, so as to ensure compliance with the terms of this Ordinance, conditions imposed on the approval of the development plan or specific development phase, or on any other terms required by the Planning and Zoning Commission. In determining the need for any financial assurance and in setting the amount, the Planning and Zoning Commission shall consider:

- 1) The purpose of the financial assurance;
- 2) The use to which any forfeited funds shall be applied;
- 3) The time when the financial assurance must be applied; and
- 4) Any increased costs based on inflation or other factors that may be incurred by the Town in the event of noncompliance with this Ordinance, terms of the approved development plan, or the terms of any permit.

The amount and terms of the financial assurance may be subject to additional consideration at the time of the annual progress review. Failure to obtain or maintain a required financial assurance shall invalidate any approvals or permits.

B. Return to Original Land Use Status: Should the PAD project fail to secure a minimum of 10% occupancy in 2 years and 50% occupancy in 5 years after development plan approval or development stage approval, or should a PAD project fail to adhere to the approved development plan and any zoning permits issued, the Planning and Zoning Commission may declare the Development Agreement null and void. Lands, plats, lots, and areas not developed may revert back to the original status at the discretion of the Planning and Zoning Commission after review by the Planning and Zoning Commission.

C. Violation, Injection, Abatement and Removal: It shall be unlawful to construct, develop, or use any structure, or develop or use any land, water, or air in violation of the provisions of this Ordinance or order of the Planning and Zoning Commission. In the event of a violation, the Planning and Zoning Commission or any owner of real estate within the district affected who would be specifically damaged by such a violation may institute appropriate legal action or proceedings to enjoin a violation of this Ordinance, or seek abatement or removal. In addition, actions commenced on behalf of the Town of Merrimac may seek a forfeiture or penalty.

D. Proceedings:

- 1) Civil Proceedings: Pursuant to Section 66.12 of the Wisconsin Statutes, an action for a violation of this Ordinance is deemed a civil action. Accordingly, Chapters 801 to 847 of the Wisconsin Statutes shall apply where applicable to violations of this Ordinance.
 - 2) Town Attorney: The Town of Merrimac Attorney may enforce this Ordinance by any means authorized by law.
 - 3) Liens: In addition to all other remedies available by law, Wisconsin Statutes, Section 59.97(11) authorized the filing of a forfeiture or penalty with the Sauk County Register of Deeds. The filing shall constitute a lien on the property involved in the violation and shall be removed only upon payment of such forfeiture or penalty. Notice of the imposition of such a lien shall be given to the defendant and prior to the filing of the lien, the defendant shall have ten days to appeal to the courts. Any judgment so filed with the Sauk County Register of Deeds shall note thereon the amount of the forfeiture or penalty and the legal description of the affected property. Upon satisfaction or partial satisfaction of such judgement, notice of such satisfaction or partial satisfaction shall be filed with the Sauk County Register of Deeds.
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Zoning Amendments Town of Merrimac

2.26 Planned Area Development

IV. PERFORMANCE GUARANTEE, ENFORCEMENT OF PLANNED AREA DEVELOPMENT, AND PENALTIES

- 1) To ensure compliance with the Zoning Ordinance and conditions imposed at the time of issuance of the Planned Area Development, the Town Board shall require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Town Board, equivalent to one hundred fifteen percent (115%) of the total cost of improvements, be deposited with the Town Clerk to ensure faithful completion of the improvements. The Town Board shall, upon evidence presented by the applicant and/or appropriate Township officials authorize the Town Clerk to release the funds upon completion of all improvements. If any improvements are not constructed within the time limit established as part of the site plan approval or within any extension thereof, then the Planning Commission shall, by resolution, request the Town Board to take appropriate legal steps to ensure completion using so much of the security deposit as is necessary for such purpose. As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Town Board to protect natural resources, or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including, but not limited to, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project, which is the subject of zoning approval.
- 2) The occurrence of either of the following events shall be considered violations of this ordinance and subject the developer of any property which is subject to an approved Planned Area Development, or any agent, lessee, employee, representative, successor or assign thereof, to the enforcement remedies contained in this Ordinance:
 - a. Failure to comply with any terms, conditions or limitations contained on a site plan, or other approved documents pertaining to a Planned Area Development which has received final approval from the town, whether under the provisions of this ordinance or under the provisions of prior law.
 - b. Failure to comply with any order of record imposed by the Town upon its approval of a Planned Area Development, whether under the provisions of this ordinance or under the provisions of prior law.
- 3) Should an order to remove any alleged violation be served upon the developer, or any other person who commits or assists in any alleged violation, and such person fails to comply with such order within fifteen days, shall be considered to be in violation of this ordinance.
- 4) Each day that such a violation occurs shall constitute a separate offense.
- 5) In addition to any of the foregoing remedies, the town's attorney, acting in behalf of the Town Board may maintain an action for an injunction to restrain any violation of this ordinance.
- 6) Any person, firm or corporation violating any provisions of this Ordinance, upon conviction therefore, shall be fined not more than five hundred dollars (\$500.00) per violation and/or may face additional penalties as subject to Sauk County or State of Wisconsin law.

Section IV Adopted and published December 2, 2004