

Topic: Planned Development Districts; Zoning
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Malta
Year (adopted, written, etc.): 2005
Community Type - applicable to: Suburban; Rural
Title: Town of Malta Planned Development Districts - Zoning Ordinance
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Abstract

Chapter 167 of the Town Code for the Town of Malta sets forth the requirements for developing the planned development district. The regulations imposed on the developer include size requirements of developments, the set-asides for work-force, and specifications related to retirement housing. The planning board may also add additional requirements which are deemed necessary. There is an automatic termination within 5 years if site plan approval or the building permit has not been obtained, or construction has yet to commence.

Resource

Town of Malta NY Planned Development Districts

Code of the Town of Malta NY

Chapter 167: Zoning

[The Town of Malta Zoning Law was adopted in 1989 and amended in its entirety in 2005]

Note 35% workforce and starter/retirement housing; automatic termination clause.

Appendix to Zoning Code details 48 planned development districts created since 1987.

General Code

ARTICLE VII Planned Development Districts

§ 167-26. Regulations.

- A. Generally. The regulations for planned development districts are intended to provide a means for the development of entirely new residential, commercial or industrial subdivisions, parks or estates in which certain economies of scale or creative architectural or planning concepts may be used by the developer without departing from the spirit and intent of this chapter, while substantially benefiting the Town in a manner not otherwise available through development under the Town's existing zoning. In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of such development or the

residents or occupants of adjoining properties. Planned development districts, as defined herein, may be established only in accordance with the procedure specified in this section.

- B. Minimum size requirements. The site for a planned development district shall not be less than 10 acres for a residential development, three acres for a commercial development (the definition of which, for purposes of this Article VII, shall include three-family and four-family dwelling units) or five acres for a planned industrial development; provided, however, that where an applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article, projects with less acreage will be considered, and further provided that in the event that the Town Board is considering a project with less acreage, the affirmative vote of not less than 4/5 of the members of the Town Board shall be required to establish such as a planned development district. The calculation of such land area shall not include existing streets, easements, parks or otherwise dedicated land or water areas in excess of 5% of the minimum gross acreage, lands officially designated on the official map of the Town or County as they may be prepared for public purposes or lands undevelopable by reason of topography, drainage or adverse subsoil conditions. Sites proposed for development for two or more classifications shall consist of the aggregate gross land area required for each use. The proposed development shall conform to the Town's Comprehensive (Master) Plan.

- C. Work-force and starter/retirement housing. The Town Board of the Town of Malta recognizes the need for housing available to persons of varying financial resources. Accordingly, all planned development districts approved after the effective date of this chapter which include residential uses shall set aside 35% of each type of residential housing unit (including, but not limited to, single-family houses, townhouses, condominiums and apartments) as work-force and starter/retirement housing. The 65% of residential housing units not so reserved is designated the "unreserved portion" of the planned development district.
 - (1) Work-force housing. For each type of residential housing unit within the planned development district, 20% of such units shall be limited in size to 40% of the square footage of the average of the units approved for the unreserved portion. (For example, if the average of the units approved for the unreserved portion is 3,200 square feet, the work-force housing units may be no larger than 1,280 square feet each.) This provision notwithstanding, the smallest house or townhouse unit required by this section shall be 1,000 square feet in size, and the smallest condominium or apartment required by this section shall be 750 square feet in size.

 - (2) Starter/retirement housing. For each type of residential housing unit within the planned development, 15% of such units shall be limited in size to 65% of the square footage of the average of the units approved for the unreserved portion of

the planned development district. (For example, if the average of the units approved for the unreserved portion is 3,200 square feet, the starter/retirement housing units may be no larger than 2,080 square feet each.) This provision notwithstanding, the smallest house or townhouse unit required by this section shall be 1,000 square feet in size, and the smallest condominium or apartment required by this section shall be 750 square feet in size.

- (3) The size of the work-force and/or starter/retirement residential housing units may be a factor in determining appropriate lot size.
- (4) Work-force and starter/retirement family housing units shall be physically interspersed with other units of the same type of housing.
- (5) Work-force and starter/retirement residential housing units shall be built approximately contemporaneously with non-work-force and non-starter/retirement residential housing units.

D. Referral to Planning Board. The Town Board shall refer the application to the Town Planning Board within 30 days of receipt of a completed application, except that, if the Town Board determines that the proposal does not merit review because it clearly does not meet the objectives of this chapter and/or the Town's Comprehensive (Master) Plan, it shall so notify the applicant, refund all application fees, shall not refer the application to the Planning Board, and no further action on the application shall be taken.

E. The application shall include:

- (1) The applicant shall provide a list of the names and addresses of all owners of property that is contiguous, abutting or adjacent or that is across an established road from the proposed boundaries of the planned development district.
- (2) The Town Building Department shall notify, by registered or certified mail, all such persons at least 10 days prior to the meeting of the Town's Planning Board when such application is to be considered with the cost of such mailing to be paid by the applicant.
- (3) The applicant shall provide the Planning Board with basic site data pertaining to the boundaries of the proposed planned development district or of an amendment to a planned development district as the Planning Board may deem appropriate, and such preliminary plans as may be required for an understanding of the proposed development, with the petition for the desired zoning change.

- (4) All applications for planned development districts or for amendments to planned development districts shall be accompanied by a long-form environmental assessment form as set forth in the New York State Environmental Quality Review Act.
- F. General provisions. Planned development districts shall be considered as a single parcel for the purpose of applying the regulations for yard dimensions specified in Area, Frontage, Bulk, Height and Setback Requirements for Zoning Districts. (A schedule of area, frontage, bulk, height and setback requirements for zoning districts is located at the end of this chapter.) Individual buildings and structures within such district need not conform to the regulations of Area, Frontage, Bulk, Height and Setback Requirements for Zoning Districts, provided that any variation from such regulations shall not be contrary to the intent of this chapter. The requirements for off-street parking, loading and unloading, screening and other transitional measures shall be as specified in this chapter. Such requirements are minimum specifications and may be more restrictive in accordance with the standards set forth elsewhere in this section. All requirements generally applicable to districts within the Town are applicable to zoning approved through PDD legislation, unless otherwise provided within that PDD legislation.
- G. Planning Board review. The Planning Board may require such changes in said preliminary plans as are found to be necessary to meet the requirements of this chapter. The Board may make such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the Town. In reaching its decision on the proposed development and changes, if any, in the preliminary plans, the Planning Board shall consider among other things, the following:
- (1) The benefit of the proposed land use in the proposed location.
 - (2) The existing character of the neighborhood in which the use would be located.
 - (3) The location of principal and accessory buildings on the site in relation to one another.
 - (4) The pedestrian circulation and open space in relation to structures.
 - (5) The traffic circulation features within the site and the amount, location and access to automobile parking areas.
 - (6) The height and bulk of buildings and their relation to other structures in the vicinity.

- (7) The proposed location, type and size of display signs, driveways, loading zones and landscaping. In addition, an applicant for a planned development district shall, in order to provide uniform sign design throughout such district, submit his plans pertaining to signs in the district to include the location, type and size of all proposed signs.
 - (8) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
 - (9) Adequacy of drainage, water supply and sewage disposal facilities.
 - (10) The benefit to the Town which would not otherwise be available through development under the Town's existing zoning.
 - (11) Such other matters as the Planning Board may consider pertinent.
- H. Planning Board recommendation. The Planning Board shall approve, approve with modifications or disapprove such application and shall report its findings to the Town Board within 62 days following the date of referral to the Planning Board. In the event the Planning Board unanimously (i.e., the vote of each Planning Board member present at the meeting at which the vote is taken) recommends against the proposed PDD legislation, the Town Board may, without further proceedings, deny the application.
- I. Public hearing. The Town Board shall hold a public hearing on the proposal, with public notice as provided by law, as in the case of an amendment to this chapter.
- J. Effect of approval. The Town Board may then amend this chapter so as to define the boundaries of the planned development district. Such action shall have the effect only of granting permission for development of the specific proposed uses in accordance with the preliminary plans filed with the Town Board. Such amendment of this chapter shall not constitute or imply a permit for construction or approval of construction plans.
- K. Effect of negative recommendation by Planning Board. In the event that the Planning Board has disapproved such proposal, or approved with modifications which the applicant is unwilling to make, an affirmative vote of not less than 4/5 of the members of the Town Board shall be required to establish such planned development district.
- L. Effect of failure to pursue. If construction work on the proposed development is not begun within time limits specified by the Town Board or such work is not completed within the period of time specified by the Town Board, approval of the application shall become null and void and all rights to the same regulations and restrictions as were effective before such approval, unless the Town Board for good cause authorizes an

extension, which may be authorized without a public hearing.

M. Open space and recreational fees.

- (1) To further minimize the impact of future development on the open space and recreational facilities of Malta, an open space and recreation fee per square foot shall be paid:
 - (a) For each nonresidential structure in an amount to be determined by the Town Board; and
 - (b) For each residential unit in the amount of \$1,000 per unit, said amount being subject to change by resolution of the Town Board.
- (2) Said sums shall be due and payable at the time a building permit is obtained. Such open space and recreation shall only be expended for open space and parkland acquisition and recreational capital improvements or for debt service relating to said open space and recreation capital improvement expenditures.

§ 167-26.A. Automatic termination.

- A. In the event any of the following actions are not taken within five years from the effective date of any planned development district (PDD) established under this article, such PDD shall be deemed null and void, and the zoning of these lands shall revert to their zoning classification existing immediately prior to such effective date:
 - (1) Site plan approval for the PDD has not been obtained;
 - (2) No building permit has been issued for construction of any structure provided for in any such planned development; or
 - (3) Construction of any such structure has not been commenced on any lands within such planned development.
- B. Where any specific provision regarding automatic termination of a PDD has been established within a given PDD ordinance or local law, which provision conflicts with this section, that specific provision shall control for that PDD.
- C. With respect to any PDD in existence as of the effective date of this section which does not contain provisions for the automatic termination of that PDD, such PDD shall be deemed null and void, and the zoning of these lands shall revert to their zoning

classification existing immediately prior to the effective date of that PDD, in the event any of the following actions are not taken within three years:

- (1) Site plan approval for the PDD has not been obtained;
- (2) No building permit has been issued for construction of any structure provided for in any such planned development; or
- (3) Construction of any such structure has not been commenced on any lands within such planned development.

D. The provisions above notwithstanding, the Town Board may, by resolution, exempt a specific PDD from termination, exempt a specific PDD from termination subject to further action of the Board, or lengthen the length of time prior to the automatic termination of a specific PDD. (A resolution adopted February 2, 2004, exempted PDD Nos. 10(a), 19, 30 and 43 from termination, subject to further action of the Town Board on 90 days' notice by regular U.S. mail to the owner(s) of the property, subject to that further action.)