

ARTICLE VI PLANNED RESIDENTIAL DEVELOPMENT

SECTION 600 PURPOSES:

The requirements for approval of a planned residential development plan under this Article shall be an exception to and in lieu of the provisions of the Subdivision and Land Development Ordinance No. 595. Failure to comply with the provisions of this Article with respect to an application for approval of a planned residential development shall be deemed to constitute a violation of this Article.

SECTION 601 APPLICATION AND REVIEW PROCEDURES:

SECTION 601.A APPLICATION FOR TENTATIVE APPROVAL:

The application for tentative approval shall include a preliminary development plan and other information as may be required by this Ordinance. The application shall be submitted to the Borough with no less than ten (10) copies of the plans, traffic studies, Environmental Impact Statements (EIS), storm water drainage calculations, and any other special studies associated with the development plan and shall be accompanied by the escrow deposit as determined by the Pennsylvania Municipalities Planning Code.

The Planning Commission shall be the responsible review agency for the Brookville Borough Council. All applications submitted for approval (both tentative and final) will be acted on by the Brookville Borough Council.

SECTION 601.B PRE APPLICATION CONFERENCES:

Each applicant shall confer with the Brookville Borough Planning Commission in connection with the preparation of the Planned Residential Development application and before the submission of such application. The purpose of pre-application conferences is to benefit the applicant by providing information and guidance before the applicant shall have entered into binding commitments or incurred any substantial expense in the preparation of plans, surveys, and other data.

The preliminary development plan shall be an overall plan for the entire tract proposed for development in the form of maps and written development narrative, setting forth the unique design features and methods of open space preservation and shall include:

1. A vicinity map at a scale of one inch (1") equals two thousand feet (2000') showing enough of the surrounding area to demonstrate the relationship of the development to adjoining uses.

2. The location, size and topography of the site and other pertinent natural features, such as tree cover, existing gas, oil, and water wells, landslide prone areas, red clay soils and any type of mining activities.
3. The overall and net density of land use to be allocated to the specific areas of the tract to be developed.
4. The location and size of the open space and the form of organization proposed to own and maintain the open space.
5. The use and approximate height, bulk, and location of the proposed development.
6. The feasibility of proposals for the disposal of sanitary waste and storm water and the approval of the servicing municipal authority.
7. The substance of covenants, grants, easements, or other restrictions proposed to be imposed upon the use of land, buildings, and structures, including proposed easements or rights-of-ways for public utilities.
8. The provisions for the parking of vehicles and the location on the width of proposed streets, alleys, and public ways.
9. The required modifications land use regulations otherwise applicable to the subject property.
10. In the case of a development plan that calls for the development over a period of years (phases), a schedule showing the proposed within which each application for final approval of the entire overall master plan of the planned residential development are intended to be filed. This schedule must be updated annually on the anniversary of its approval until the project is complete and recommended by the Planning Commission and approved Borough Council.
11. The applicant shall submit for tentative approval of a Planned Residential Development a written statement by the landowner setting forth the reasons why, in their opinion, a Planned Residential Development would be in the public interest and would be consistent with the Brookville Borough Comprehensive Plan.

SECTION 601.C REVIEW OF APPLICATION FOR TENTATIVE APPROVAL:

The Brookville Borough Planning Commission shall forward copies of the application for tentative approval to the Brookville Borough Council, its selected professional consultants as deemed appropriate, the engineer, and servicing municipal authority.

The Brookville Borough Council shall not approve the application for tentative approval until the reports from each of the reviewers and review agencies have been received or until the expiration of forty-five (45) days from the date said reviewers and review agencies received the copies of the application for tentative approval.

SECTION 601.D PUBLIC HEARING:

The Brookville Borough Council shall hold a public hearing following required public notice within sixty (60) days of the filing of a complete application for tentative approval.

SECTION 601.E CRITERIA FOR TENTATIVE APPROVAL:

The Brookville Borough Council may grant tentative approval to a proposed development plan when it is found to meet the following criteria:

1. The proposed Planned Residential Development complies with all applicable community development objectives.
2. The proposed Planned Residential Development provides standards varying from those in this Article and the subdivision regulations otherwise applicable to the subject property, but such departures are in the best interest to promote the health, safety, and general welfare of the public.
3. The proposal and methods for the maintenance and conversion of any proposed common open space are reliable, and the amount and extent of improvements of the remaining land are appropriate with respect to the purpose, use, and type of residential development proposed.
4. The physical design of the proposed development plan adequately provides for internal traffic circulation, parking, light, air, recreation, and conservation of natural amenities, greenways, and open spaces.
5. The tract of the planned residential development is harmonious and consistent with the neighborhood in which it is located. The flexibility of design innovation and unique treatment of the site is consistent with the purpose of the Zoning District and adjacent land uses.
6. The proposed planned residential development will afford a greater degree of protection of natural resources and the Brookville Borough Subdivision and Land Development Ordinance.
7. In the case of a planned residential development, which proposes development over a period of years, the phased development schedule is sufficient to protect the interests of the public and of the residents of the planned residential development.

SECTION 601.F GRANT OR DENIAL OF TENTATIVE APPROVAL:

The Brookville Borough Council shall render their decision no later than sixty (60) days after the conclusion of the public hearing.

1. The decision of the Brookville Borough Council shall be in writing and shall be sent to the developer personally or delivered to them at their last known address no later than five (5) days following the decision.
2. The Brookville Borough Council may:
 - a. Grant tentative approval of the development plan as submitted;
 - b. Grant tentative approval subject to specific conditions not included in the development plan as submitted; or
 - c. Deny tentative approval of the development plan;
3. The grant or denial of tentative approval shall include findings of fact related to the proposed development plan as submitted for approval, and the reasons for the decision of denial shall set forth what particular circumstances of the development plan would not be in the best interests of the public, including, but not limited to, each of the criteria listed in this Article.
4. In the event that the development plan is granted tentative approval with or without conditions, the Brookville Borough Council may set forth in the official written communication time within which the application for final approval of the development plan shall be filed, or in the case of a development plan, which provides for development over a period of years, the periods of time within which applications for final approval of each phase thereof shall be filed. Except upon consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months, and in the case of a development planned over a period of years, the time between applications for final approval of each part or phase of the plan shall not be less than twelve (12) months
5. In the event that tentative approval is not granted subject to conditions and the landowner neither refuses to accept those conditions, nor notifies the Brookville Borough Council of their refusal, tentative approval with conditions shall stand as granted

6. The Brookville Borough Council shall revoke the grant of tentative approval if they are notified by the developer of their intention to abandon the proposed development plan. The grant of tentative approval shall be deemed revoked if the developer does not submit an application for final approval within the time limits required by law.

SECTION 602 STATUS OF PLAN AFTER TENTATIVE APPROVAL:

The official written communication provided for in this Article shall be certified by the Brookville Borough Secretary or Solicitor and shall be filed in their office, and a certified copy shall be mailed to the landowner. Where tentative approval is granted, it shall be deemed an amendment to the Zoning Map effective on final approval, and the same shall be noted on the Brookville Borough Zoning Map.

Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorized development or issuance of any building permits. A development plan which has been given tentative approval as submitted or which has been tentatively approved with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of tentative approval) shall not be modified, revoked or otherwise impaired by the actions of the Brookville Borough Council, provided that an application for the final approval is filed, or, in the case of a development over the course of years, provided that applications are filed within the periods of time specified in the official written communication granting tentative approval.

In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Brookville Borough Council in writing, or in the event the landowner shall fail to file an application for final approval within the required time period of time, the tentative approval shall be revoked and all the portion of the area included in the development plan for which final approval has not been given shall be subject to the ordinances otherwise applicable thereto as they may be amended from time to time. The same shall be noted on the Brookville Borough Zoning Map and in the records of the Borough.

SECTION 603 APPLICATIONS FOR FINAL APPROVAL:

An application for final approval may be for all the land in the proposed development plan, or to the extent set forth in the tentative approval, for a section thereof. Said application shall be filed within the time or times specified by the written communication following the grant of tentative approval. The Brookville Borough Council may grant time extensions upon written request from the applicant.

The application for final approval shall include all data required for final plan or plat approval as specified in the Subdivision and Land Development Ordinance.

SECTION 604 GUARANTEES OF IMPROVEMENTS:

No development plan shall be given final approval unless a guarantee that the required improvements to be installed by the landowner is given to the Brookville Borough Council in the form of a performance bond, certified irrevocable letter of credit, certificate of deposit, or escrow held in an account that is equal to the amount of one hundred and ten percent (110%) of the cost of the improvements that may be required. The Brookville Borough Engineer sets the bonding and escrow amounts. Said guarantee shall provide for the secure public completion of any or all proposed improvements for the phase submitted for approval within the time period established from the date of final approval.

SECTION 605 FINAL REVIEW:

The Brookville Borough Planning Commission shall forward copies of the applications for final approval to the Brookville Borough Council and the Brookville Borough Engineer. The Brookville Borough Council shall not approve the plans until comments from Brookville Borough Planning Commission and Engineer each have been received or until the forty-five (45) days from the date of the copies of the final application is filed.

SECTION 606 FINAL APPROVALS:

The Brookville Borough Council shall render their decision and communicate it to the developer no later than forty-five (45) days from the date of the Planning Commission meeting, after which a complete application if filed.

When a preliminary application for a proposed development plan has been granted tentative approval, the applicant shall be entitled to final approval in accordance with the terms of tentative approval.

The Brookville Borough Council may deny approval of any development plan, which varies from the preliminary granted tentative approval. The Brookville Borough Council must forward written notice of such denial to the landowner within forty-five (45) days, setting forth the reasons that one (1) or more variations are not in the public interest.

In the event of such denial, the landowner may do one (1) or more of the following:

- A. Refile their application without the matters objected,
- B. File a written request with the Brookville Borough Council that it hold a public hearing on their application for final approval, or
- C. In the event that the landowner shall fail to take either of these options within thirty (30) days or within the time specified to apply for final approval, he shall be deemed to have abandoned the development plan.

All procedural requirements of the Pennsylvania Municipalities Planning Code, Act 247 as amended, Article VII, shall apply.

SECTION 607 RECORDING:

The developer shall record the approved plan in the Jefferson County Register and Recorder within ninety (90) days of the date of final approval.

SECTION 608 REVOCATIONS:

The approval of the development plan shall be revoked if the developer gives notice of his intention to abandon the plan or if the developer fails to complete the development within three (3) years of the date of final approval, or if the development is approved in phases, then three (3) years from the date of commencement of any phase. No further development shall take place on the property included in the overall development plan unless a subsequent development plan is approved and complies with the provisions of this Article and the Brookville Borough Subdivision and Land Development Ordinance 595.

SECTION 609 DEVELOPMENT STANDARDS:

SECTION 609.A SITE REQUIREMENTS:

The site for any planned residential development plan shall meet the following requirements:

SECTION 609.A.1 OWNERSHIP:

The developer shall control the entire site for the development.

SECTION 609. A.2 MINIMUM SIZE:

The site shall not be less than five (5) contiguous acres.

SECTION 609.A.3 FRONTAGE:

The minimum frontage abutting public rights-of-way shall conform to Pennsylvania Department of Highway Standards at the time of submittal.

SECTION 609.A.4 ACCESS:

The site must provide for direct access from an arterial or collector street indicated on the development application for tentative approval in order to assure the proper convenient and safe access to the development plan without causing excessive congestion or pedestrian or vehicular traffic hazards on adjacent streets and intersections.

SECTION 609.A.5 SITE SAFETY:

The site shall not be one that endangers the environment or people.

SECTION 609.A.6 PUBLIC UTILITY SERVICE:

The development complies with any servicing water authority or company and the sanitary authority servicing the site.

SECTION 609.A.7 PERMITTED USES:

A mixture of residential dwellings recreational facilities, open space, greenways, putting greens, swimming pools, and accessory uses incidental to residential buildings, and small-scale neighborhood commercial activities and personal service uses not exceeding fifty percent (50%) of the gross area of the tract proposed for development may be permitted in a Planned Residential Development provided that their arrangement, design, landscaping, pedestrian circulation plan, construction and public utility requirements established in this Section are used for and by the owners, tenants, and guests only.

SECTION 609.A.8 PERMITTED DENSITIES:

The average overall density for all residential units in the plan shall not exceed four (4) units per acre for the net "buildable area"; the area available for land development after rights-of-way, easements, greenways, usable open spaces, etc. have been deducted from the sites gross land mass development.

SECTION 609.A.9 YARD AND OPEN SPACE REQUIREMENTS:

There shall not be any restrictions for lot size, lot width, yard setbacks, or percentage of lot coverage except for the following:

SECTION 609.A.10 OPEN SPACE:

No less than twenty percent (20%) shall be set aside for open space. The open space may not include:

- A. Detention or Retention Ponds
- B. Riparian Buffers.
- C. Slide prone areas.
- D. Slopes in excess of twenty-five percent (25%).
- E. Agricultural Lands.
- F. Roads.
- G. Clubhouses.

- H. Tennis Courts.
- I. Basketball Courts.
- J. Intense recreational areas.
- K. Driveways.
- L. Sidewalks; and
- M. Any other impervious surfaces.

SECTION 609.A.11 OPEN SPACE RESERVATION:

Open space created by the application of the provisions of this Article are required to be dedicated or otherwise preserved and maintained so as to always remain open. The land used for active and passive recreation must be acceptable according to the following provisions:

- 1) The land and/or facilities shall be deeded to an organization representing the property owners of the development. The organization shall covenant to operate and maintain the land and or facilities; or
- 2) The land shall be deeded to the abutting property owners as tenancy in common; and or
- 3) The land shall be dedicated to park and recreational use.

SECTION 609.A.12 MINIMUM BUILDING SETBACK:

No structure shall be located closer than the setback requirement applicable to the immediately abutting Zoning District.

SECTION 609.A.13 BUILDING GROUPING:

Each building used for multi-family dwellings and their accessory use buildings shall be oriented in such a manner as to ensure proper air, light, and exposure for walls with windows.

Each building shall be so arranged to avoid unnecessary exposure to large-scale parking and loading facilities and shall be so situated that there is privacy between buildings and audible privacy (noise) to and from adjacent lots. Any building used, as a dwelling unit shall be sited so emergency vehicles can access it.

No multi-family structure shall be located closer than twenty-five feet (25') from any other structure in the development unless deemed advisable by the Brookville Borough Council when the plan receives tentative approval.

SECTION 609.A.14 MINIMUM BUILDING SPACING:

No structure shall be located closer than twenty-five feet (25') from any other structure in the development.

SECTION 609.A.15 HOMEOWNERS ASSOCIATIONS:

Open spaces between buildings, including those used for recreation, shall be protected by adequate covenants running with the land as the Brookville Borough Council may specify.

In cases where the Brookville Borough Council specifies that the municipality is not accepting open spaces including those used for recreation and storm water detention and areas between buildings, the landowner shall provide an organization, homeowner's association or trust for such maintenance. Before disposing of any of the property owned by the homeowner's association or trust, the Association must first be offered the opportunity to take the property in question by dedication before it is sold or transferred to a like agency.

In the event the organization established to own and maintain the commonly owned property fails to do so, Brookville Borough may serve written notice upon such organization or upon the residents of the Planned Residential Development setting forth the deficiencies and requiring compliance within forty-five (45) days. A date and place for a hearing to be held within fourteen (14) days of the receipt of the notice of violation shall be included.

If the deficiencies are not corrected within the specified time frame, in order to maintain the value of the property within the Planned Residential Development, the Borough may maintain the commonly owned area for one (1) year. If within the year and following a public hearing, Brookville Borough determines that the organization or a new organization is capable and ready to assume the maintenance of the commonly owned areas; maintenance will stop within six (6) months of the year established for the Borough to maintain the area(s).

Maintenance costs borne by the developer shall be assessed and applied against the properties within the Planned Residential Development.

All procedural requirements of the Pennsylvania Municipalities Planning Code (PAMPC), Act 247 as amended, Article VII, and Section 705 shall apply.

SECTION 609.A.16 ROADS AND PARKING:

Access to any Planned Residential Development shall be provided by an arterial or Collector Street as identified in the Brookville Borough Comprehensive Plan. The dimensions and construction of alleys, bikeways, roads, streets and parking areas provided within the Planned Residential Development will comply with the standards of Brookville Zoning/RKA/Article VI

Brookville Borough at the time the application is approved whether the areas are dedicated to the Borough or not. If a developer can justify that the density of the development and the flow of its traffic, pedestrian, and bikeways do not conform to such requirements, the Brookville Borough Council may allow for lesser standards, which shall not be contrary to the community goals and objectives of Article I, Section 104 of the Brookville Borough Comprehensive Plan. Every single-family dwelling unit is required to have access to a street or public rights-of-way.

SECTION 609.A.17 HEIGHT LIMITATIONS:

All structures located within the Planned Residential Development shall not exceed thirty-five (35') feet in height measured from the finished first floor elevation and the highest peak of the roof.

SECTION 609.A.18 MAXIMUM BUILDING SIZE:

No residential multi-family dwelling unit shall contain more than sixteen (16) dwelling units. No building shall have a greater depth of more than two hundred feet (200').

SECTION 609.A.19 PHASED DEVELOPMENT:

In no instance shall the density (dwelling units per acre) of any phase of the development exceed the allowable net density as permitted by this Article within the Zoning District(s) as established by this Ordinance.

SECTION 610 ENFORCEMENT AND AMENDMENT:

To ensure the integrity of the development plan and guarantee that modifications in the plan do not have an adverse impact on the environment or its residents, the enforcement and modification of the development plan as finally approved, where those are recorded by plat, covenant, easement or otherwise legally permissible shall be subject to the following provisions:

SECTION 610.A PROVISIONS IN FAVOR OF THE BOROUGH:

All provisions of the development plan relating to the use, bulk, and location of buildings and structures, the quality and location of common open space, except as otherwise provided in this Article, and the intensity of the use of residential units shall be interpreted to be in favor of the Borough. In addition, as provided by law, these provisions shall be enforceable by law or in equity without limitation on any powers of regulation otherwise granted by law.

SECTION 610.B PROVISIONS IN FAVOR OF RESIDENTS:

All provisions of the development plan shall be interpreted in favor of the residents of the Planned Residential Development but only to the extent expressly provided in the

development plan. Furthermore, these provisions, whether recorded by plat, covenant, easement or otherwise legally permissible, may be enforced at law or in equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf. No provisions of the development plan shall be implied to exist in favor of the residents of the Planned Residential Development except as to those portions of the development plan, which have been finally approved and recorded.

SECTION 610.C RELEASE OF RIGHTS:

Residents of the Planned Residential Development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, move, or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the Borough to enforce the provisions of the development plan in accordance with the provisions of this Article.