

PROPOSED TEXT:

LOCAL LAW NUMBER \_\_\_\_ of 2007

**A LOCAL LAW  
PROVIDING FOR PLANNED UNIT DEVELOPMENTS**

**Be it enacted by the Fort Edward Town Board as follows:**

**ARTICLE 1. Purpose; Authority** - The purpose of this Local Law is to give the Town of Fort Edward flexibility in the development of land in order to promote its most appropriate use while ensuring that improvements are sited and maintained in a manner that safeguards the health, safety and welfare of the residents of the Town. It is adopted pursuant to Municipal Home Rule Law Section 10.

**ARTICLE 2. Amendment of Zoning Ordinance** – Chapter 108 of the Fort Edward Town Code, entitled “Zoning”, is amended by adding the following:

**§ \_\_\_\_\_. PLANNED UNIT DEVELOPMENTS.**

**1. Definition of Planned Unit Development.**

A planned unit development (“PUD”) is an area under single ownership or control to be developed in conformance with an approved development plan, consisting of a survey map showing the development area and all improvements to the development area, a text which sets forth the allowed uses and the development standards to be met, and exhibits setting forth any aspects of the development plan not fully described in the map and text. The map, text and exhibits constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the planned unit development district instead of the regulations for the underlying zoning district as shown on the Zoning Map.

**2. Purpose**

The purposes of the PUD are to give the Town of Fort Edward flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities, and municipal services; to preserve the natural, environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; to meet the growing demand for housing at all economic levels by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments and to mitigate the problems which may be presented by specific site conditions. It is anticipated that PUDs will provide one or more of the following benefits:

- (a) reflection of the policies of the Comprehensive Plan specific to the neighborhood in which the PUD is to be located;
- (b) maintenance of substantial buffers and transitions between areas of different land uses and development densities;
- (c) enhancement of the appearance of neighborhoods by conservation of areas of natural beauty and natural green spaces;
- (d) promotion of architecture that is compatible with the surroundings;
- (e) buffering of differing types of land use and intensities of development from each other so as to minimize any adverse impact which new development may have on existing or zoned development;
- (f) creation of more usable open space, preserve lands and/or recreational areas;

(g) promotion and protection of the environmental integrity of the site and its surroundings and provision of suitable design responses to the specific environmental constraints of the site and surrounding area; and

(h) offer of choices in the type of occupancy, including ownership, rental, condominium, etcetera.

### **3. General requirements.**

A. Ownership. The tract of land proposed for a PUD project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application may be filed only by the owner, or jointly by all owners, of all property included in a project, or by the authorized representative(s) of the owner(s), or by a contract vendee of the property or a person or entity who holds an option on the property. In the case of multiple ownership, any resulting approved plan shall be binding on all owners.

B. Minimum area. The minimum area for a PUD shall be twenty (20) contiguous acres of land in the R-Ag zoning district and for a PUD which includes mobile home parks as an allowed use regardless of the zoning district. In zoning districts other than R-Ag and for PUDs not allowing mobile home parks, the Town Board may, after review by the Planning Board, consider projects of lesser acreage where the applicant can demonstrate that the characteristics of the property meet the purposes and objectives of this Chapter.

C. Permitted uses. Any one or more of the following uses may be permitted in a PUD, provided that the building arrangement, site design and mixture of uses are appropriate to the area in which the PUD is located:

(1) Single family residential uses, including mobile home parks;

(2) Any other residential uses (except individual mobile homes);

- (3) Recreational uses;
- (4) Commercial uses;
- (5) Industrial uses; and
- (6) Community facilities.

Permitted uses within a particular PUD District are to be determined by the provisions and review considerations of this section.

D. Location of planned unit development. The PUD district designation may be applicable to any area of the Town where the applicant can demonstrate that the characteristics of the proposed development of the site meet the objectives of this section.

E. Density. Because land is typically used more efficiently in a planned unit development, improved environmental quality can usually be preserved with greater density than is permitted in the underlying zoning district(s) by the existing zoning designation. The Town Board shall determine in each case the appropriate land use intensity and/or dwelling unit density for individual projects. The determination of land use intensity or dwelling unit density shall be supported by studies and professional opinions, including those necessary to ensure safe and sanitary installation of water, septic, transportation and utility systems. When requested by the Planning Board or Town Board, the applicant shall provide studies and reports as necessary for the Town Board and Planning Board to determine the appropriate land use intensity and/or dwelling unit density for the proposed PUD. The Town Board and/or the Planning Board may retain experts for assistance in evaluating any proposed project. The applicant shall bear the expense of such expert assistance upon prior notification of the estimated expense of such assistance.

F. Designation of Permanent Open Space.

(1) Permanent open space shall be defined as parks, playgrounds, landscaped green space and undisturbed natural areas, not including schools, community centers or other similar areas in public ownership.

(2) No plan for a planned unit development shall be approved unless it provides for land dedicated for permanent open space, including park, recreation, landscaped or undisturbed natural areas. Natural areas may be designated through the use of common space or other mechanisms such as conservation easements to the satisfaction of the Planning Board and the Town Board.

(3) In the case of a PUD including only one type of land use, open space shall be provided in at least the following minimum percentages of the total gross area of the PUD according to the type of use:

- (a) Residential use -35%
- (b) Non-residential uses - 25%

In the case of a mixed use PUD, permanent open space shall be provided in accordance with the percentages above for the gross area occupied by each type of use and shall be located in reasonable proximity to and made accessible by residential uses, if any. However, permanent open space need not be located in proximity to or accessible by residential uses in the case of preservation of existing features and undisturbed natural areas.

(4) If the preliminary plan provides for the planned unit development to be constructed in stages or phases over a period of time, the total amount of open space that will ultimately be required for the fully-developed build-out must be identified on the initial project application form. In addition, one or more specific areas of the overall project site, equal or greater in total area to the total required open space area for the project, must be identified and proposed on project maps submitted with the project application form. The area(s) proposed to be set aside as open space will be subject to review by the Planning Board, which shall provide its recommendations regarding open

space for the project to the Town Board for the Town Board's review and approval. The open space required for full build-out of the PUD must either be conveyed in full at the outset of development, or it may be conveyed proportionally, for each phase or stage, upon the start of each stage or phase of development. In either case, the open space must be conveyed or guaranteed as provided in subparagraph (5) below. Where open space is to be conveyed proportionally, the developer shall, prior to commencing development, provide a Letter of Credit for the Town's benefit from a bank located within a 50-mile radius of the Town to cover the entire cost of all recreational or other improvements to be provided with the total open space for all phases.

(5) The ownership of land dedicated for park, recreation or open space use shall be determined by the property owner or applicant. The person or entity having the right of ownership shall be responsible for its appropriate improvement, maintenance and continued upkeep. Ownership shall be with one of the following:

- (a) the Town;
- (b) another public jurisdiction or agency, subject to approval by the Town Board;
- (c) a private, nonprofit organization incorporated with a purpose consistent with the use and management requirements of the dedicated land;
- (d) shared, common interest by all property owners;
- (e) a homeowners', condominium or cooperative association or organization; or

(f) private ownership encumbered by a conservation easement pursuant to §247 of the General Municipal Law or §§49-0301 through 49-0311 of the Environmental Conservation Law.

G. Common property. Common property in a PUD consists of a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites.

Common property may include private streets, drives, services, parking areas and recreational and open space areas. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities. All streets, drives and parking areas must be built to Town standards unless explicit exception is made by the Town Board after review by the Planning Board.

#### **4. Procedure.**

A. Introduction. A six step application process shall be followed, including:

- (1) Pre-application conference with the Planning Board ;
- (2) Application to Town Board;
- (3) Referral to Planning Board for review and recommendation;
- (4) Public Hearing by Town Board;
- (5) Action by Town Board; and
- (6) Final development plan approval by Planning Board.

B. Pre-Application Conference. Prior to making any formal submission, the applicant shall arrange to meet with the Planning Board for a pre-application conference in order to discuss the proposal and application procedure. The applicant shall submit eleven (11) copies of a sketch plan of the proposed PUD to the Clerk of the Planning Board at least 10 days prior to the regular meeting of the Board at which the proposal is to be discussed. The sketch plan shall be based on tax map information or other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. At the same time, the applicant shall also provide eleven

(11) copies of an aerial photograph of the proposed PUD site showing all tax parcel boundary lines for the site and surrounding area.

C. Application to Town Board. The applicant shall submit to the Town Board an application and twelve (12) copies of a sketch plan which shall include a map showing the boundaries of the proposed PUD, a description of the proposed PUD District, existing zoning, uses proposed to be allowed in the PUD, such covenants or deed restrictions as are intended to cover all or part of the tract, topography, drainage and soil conditions, and such additional sketch plans as may be required for an understanding of the proposed development. The applicant shall also submit three (3) copies of an aerial photograph of the proposed PUD site showing all tax parcel boundary lines for the site and surrounding area. The basic data, sketch maps and sketch plans shall be prepared in sufficient detail that the Planning Board will be able to determine, among other things, the following:

- (1) The desirability of the proposed land use(s) in the proposed location.
- (2) The existing character of the neighborhood.
- (3) The proposed location and approximate size of playgrounds and recreational areas proposed for the site and the general location of such facilities in respect to the proposed buildings to be erected on the site.
- (4) The general location of principal and accessory buildings on the site in relation to one another and to other structures in the vicinity.
- (5) The pedestrian circulation and open space in relation to proposed structures.
- (6) Existing state, county or Town highways which provide access to the area.
- (7) The vehicular traffic circulation features, including proposed highways

and proposed roadways within the proposed district; and the number, size and location of automobile parking areas and loading areas and the proposed access to such areas.

(8) The approximate height and bulk of buildings and the intended use of such buildings.

(9) The proposed safeguards to be provided to minimize possible detrimental effects of the proposed use(s) on adjacent properties and the neighborhood in general.

(10) The proposed source of water supply.

(11) The general storm drainage plan proposed for the area and adjacent lands where such are involved.

(12) The general plan for the collection and disposal of sanitary wastes for the development.

If the application covers only a part of the applicant's entire contiguous holding, a map of the entire tract showing an outline of the area included in the PUD application shall also be submitted.

The applicant shall also provide a completed State Environmental Quality Review Act (SEQRA) long form Environmental Assessment Form (EAF) Part I.

D. Referral; Review and Recommendation by Planning Board. The Town Board shall refer the application and accompanying documents to the Planning Board for its review and recommendation.

(1) The Planning Board shall discuss the application and shall review the sketch plan with the applicant with the assistance of the Town Engineer to determine the application's completeness. The Planning Board may request such additional information and plan revisions from the applicant as it deems necessary to complete its review. The Planning Board shall make no determination that the application is complete nor any recommendation to the Town Board regarding the proposed PUD unless and until the Planning Board first determines that the proposed plan has been properly revised to incorporate any needed changes and the application is otherwise complete and ready to be transmitted to the Town Board. Upon the Planning Board's determination that the application is complete, the plan shall be known as the "preliminary development plan" for the proposed PUD.

(2) At its option, the Planning Board may hold a public hearing on the proposed PUD. If it elects to hold a public hearing, the Planning Board must do so within forty-five (45) days after its determination that the application is complete. The Planning Board shall provide public notice of the hearing by publication in a newspaper of general circulation in the Town at least ten (10) days prior to the date of the public hearing and shall also post a notice of the hearing on the official sign board of the Town at least ten (10) days prior to the hearing. In addition, at least ten (10) days before the public hearing, written notice of the hearing shall be sent, via regular first class mail, to owners of all properties located within 500 feet of the site of the proposed PUD.

(3) Within seventy-five (75) days of its determination that the application is complete, or, if a public hearing is held, within seventy-five (75) days after the close of the public hearing, the Planning Board shall transmit to the Town Board and the applicant its written recommendation for approval, approval with conditions or modifications or disapproval of the application based on the review considerations set forth in Section 5, together with a discussion of the basis for its recommendation. The applicable time period for the Planning

Board's recommendation and referral to the Town Board may be extended by mutual agreement of the applicant and the Planning Board in order to allow additional time for the Planning Board's review, the submission of additional information by the applicant or the revision of the proposal to address concerns expressed by the Planning Board.

E. Public Hearing by Town Board Within forty-five (45) days of receipt of the Planning Board's recommendation the Town Board shall set a date for a public hearing on the proposed change of zoning to include the proposed PUD district. At least ten (10) days prior to the date of public hearing, the Town Board shall provide public notice of the hearing by publication in a newspaper of general circulation in the Town and posting a notice of the hearing on the official sign board of the Town. In addition, at least ten (10) days before the public hearing, written notice of the hearing shall be sent, via regular first class mail, to owners of all properties located within 500 feet of the site of the proposed PUD.

F. Action by Town Board.

(1) The Town Board shall render a final decision on the application within seventy-five (75) days after the later of the completion of the State Environmental Quality Review Act (SEQRA) review process or close of the public hearing required under Paragraph E, above. An extension of this time frame may be agreed to by the applicant and the Town Board. If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended to define the boundaries of the PUD District, and an appropriate notation indicating approval shall be made on the face of ten (10) copies of the preliminary development plan. One (1) copy shall be retained by the Town Clerk, one (1) shall be given to the Zoning Administrator, one (1) shall be returned to the applicant, and seven (7) copies shall be retained by the Planning Board.

(2) The Town Board may include conditions or additional requirements the applicants must meet in its Resolution approving the zoning change if it

believes they are necessary in order to fully protect the health, safety and general welfare of the community. Such conditions and requirements may include but are not limited to:

- (a) Visual and acoustical screening.
- (b) Land use mix.
- (c) Schedule of construction of occupancy.
- (d) Pedestrian and vehicular circulation system.
- (e) Parking and snow removal.
- (f) Sites for public services.
- (g) Protection of natural and/or historical features.

G. Final development plan approval.

(1) Prior to the issuance of any building permit for the PUD, the applicant shall submit a final development plan for review and approval by the Planning Board. All plans and specifications shall bear the signature and the seal of a licensed architect, landscape architect or licensed professional engineer responsible for the design and drawings. The following shall be included in a final development plan:

- (a) A final plat to be filed with the County Clerk, which shall be printed upon mylar. The sheets shall include a margin for binding of two inches, outside the border, along the left side and a margin of one-half (1/2) inch outside of the border along the remaining sides. The plat shall be drawn at a scale of 50 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire PUD with lot and block numbers clearly legible. The plat shall show:

(i) The proposed PUD name or identifying title and the name of the Town and County in which the PUD is located, the name and address of record owner and applicant, name, license number and seal of the licensed land surveyor and/or licensed engineer.

(ii) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.

(iii) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the New York State Plane Coordinates System East Zone and, in any event, should be tied to reference points previously established by a public authority.

(iv) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All bearings and distances of the lines of each lot shall also be given. All dimensions shall be shown in feet and tenths of a foot. The plat shall show the boundary of the property location, graphic scale and true North point.

(v) Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of the Town Engineer. When referenced to the State system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the plat.

(b) Construction drawings and engineering plans, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins and other facilities. Where applicable, all improvements shall comply with the Town of Fort Edward Subdivision Regulations.

(c) A landscaping plan, including site grading, the placement of plantings and structures.

(d) Preliminary drawings of the buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.

(e) An estimate, from an appropriately-qualified professional, of the costs to construct and/or install various improvements including but not limited to: streets, drainage pipes, utilities, traffic and pedestrian facilities and landscaping. This estimate shall be the basis for the letter(s) of credit or other financial security to be provided by the applicant to insure that the necessary improvements are provided and completed, consistent with the approved plans.

(f) Offers of dedication and proposed restrictive covenants on open space.

(g) Construction sequence and time schedule for completion of the components of each development phase.

(h) Complete documentation of intended ownership and maintenance of open space and common property.

- (i) Sworn statement by the applicant that the performance standards of this chapter shall not be violated.
- (2) The final development plan shall be in general conformance with the approved preliminary development plan. Approval of a final development plan shall be secured by the owner for each phase of the development prior to issuance of building permits. Such approval for each phase shall be valid for two (2) years from the date of approval, at which time final development plan approval shall terminate, and no additional building permits shall be issued without reapplication for final development plan approval.

**5. Review Considerations.**

A. General Review Considerations. In their consideration of a planned unit development preliminary plan, the Planning Board in its recommendation and the Town Board in its decision shall consider as many of the following as may be relevant to the specific proposal:

- (1) The extent to which the proposed plan meets the requirements, standards, and stated purpose of these planned unit development regulations.
- (2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest.
- (3) The extent to which the planned unit development meets the purposes of the Town's Zoning Law, the Comprehensive Plan, and any other adopted planning objectives of the Town. Any specific benefits shall be specifically cited.

(4) The physical design of the planned unit development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment.

(5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

(6) The desirability of the proposed plan to the Town's physical development, tax base and economic well-being.

(7) Whether the proposal will cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services.

(8) Whether the proposal preserves significant ecological, natural, historical and architectural resources to the extent possible.

(9) Whether the proposal will be injurious to the public health, safety, and general welfare.

(10) Whether the proposed development is an effective and unified treatment of the development possibilities on the planned development site.

B. Additional Standards for PUDs Allowing Mobile Homes. In addition to the general standards of subsection (A) of this section, PUDs which allow mobile home parks shall be designed to the following specifications, unless the Planning Board recommends approval of an alternative plan which evidences innovative site design, preservation of site features or improved relationship to surroundings. Such an alternative plan shall not serve merely to reduce the following specifications.

(1) Each section of the PUD in which a mobile home park may be located shall be at least twenty (20) acres in size, with one hundred (100) or more feet of frontage on a public road, with one hundred (100) feet of setback from said road and properly landscaped subject to State and local laws.

(2) Each mobile home must be sited with its longest dimension parallel to the road in front of it.

(3) Each lot which may be used for a mobile home shall have an area of not less than ten thousand (10,000) square feet if served by municipal or community water and sewer. Lots served by either municipal/community sewer or water but not both shall be a minimum of fifteen thousand (15,000) square feet in size. Lots served by neither shall be a minimum of twenty thousand (20,000) square feet in size.

(3) Lots which may be used for a mobile home shall be subject to the following minimum setbacks, dimensional requirements and coverage limitations:

(a) Front setback: 20 feet

(b) Rear setback: 25 feet

(c) Side setback: 10 feet, with at least 25 feet in combined side setbacks.

(d) Lot width: 100 feet.

(e) Lot depth: 100 feet.

(f) Building coverage: not more than thirty percent (30%).

(4) At least two (2) off-street parking spaces shall be provided on each lot which may be use for a Mobile Home and each parking space shall have a minimum width of nine (9) feet and length of twenty (20) feet. Additional off-street parking spaces shall be provided for guests and delivery and service

vehicles. The surface of parking spaces shall be crushed stone or concrete or asphalt paving.

(5) Mobile Home Appearance, Characteristics and Installation:

(a) The roof of all Mobile Homes shall be pitched; no flat or “shed” roofs are permitted.

(b) The Mobile Home must be at least twenty (20) feet wide and must bear the seal of the United States Department of Housing and Urban Development (HUD).

(c) Within thirty (30) days of placement on a lot within a PUD, the wheels and hitch of the Mobile Home shall be removed. Any Mobile Home not placed on a permanent, enclosed foundation set below the frost line shall have the area between the ground and the top of its frame permanently enclosed around the entire perimeter of the Mobile Home to conceal and protect the space under the mobile home. Acceptable materials for such enclosures shall include cement, concrete, masonry block, brick and natural stone, mortared or block-bonded in place, as applicable. Wood, wood products, metal, plastic and other non-masonry materials shall not be acceptable for such enclosures.

(d) Each Mobile Home shall be installed and anchored in accordance with all requirements of applicable Federal and/or New York State codes, rules and regulations.

(e) To reduce yard clutter, each Mobile Home shall have a detached storage shed of non-metal construction with doors to enclose the interior. The maximum building footprint of the storage shed shall not exceed 120 square feet and the maximum height to peak of its roof shall not exceed ten (10) feet and in no case shall exceed the height of the Mobile Home on the lot.

(f) All installation and construction practices shall conform to standard engineering procedures and all applicable Federal, State and Local laws, codes, rules, regulations and requirements.

## **6. Changes in the Planned Unit Development.**

A PUD shall be developed only according to the approved final development plan. The final development plan shall be binding on the applicants, their successors and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the PUD.

A. Major Changes. Changes which alter the concept or intent of the PUD, including but not limited to (1) changes in density; (2) more than a one percent (1%) reduction of proposed open space; (3) more than a ten percent (10%) modification of proportion of permitted uses; (4) more than a twenty percent (20%) increase in the total floor area of a building; (5) decrease in the ratio of off-street parking spaces to use; (6) substantive changes in standards, continuity, or general location of roads, utilities and stormwater management; or (7) changes in the final governing agreements where such changes conflict with the preliminary plan approval, may be approved only by repeating the preliminary plan approval procedures for Planning Board recommendation and subsequent amendment of the PUD final development plan by the Town Board.

B. Minor Changes. The Zoning Administrator may approve minor changes which do not change the concept or intent of the PUD. These changes include (1) minor changes in the location and siting of buildings and structures; (2) changes in height of less than one story, or not over eight feet in any case; and (3) minor changes in the internal street system and off-street parking areas; provided that such changes may not decrease the area devoted to open space in excess of one percent (1%). Any minor changes approved shall be documented on the approved final development plan.

**ARTICLE 3. Repealer** - All Local Laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local Law are hereby repealed.

**ARTICLE 4. Severability** - The invalidity or unconstitutionality of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part hereof. The Town Board of the Town of Fort Edward hereby declares that it would have passed this Local Law and each section and sub-section hereof irrespective of the fact that any one or more of the sections, sub-sections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**ARTICLE 5. Effective Date** - This Local Law shall take effect upon filing in the office of the New York State Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.