

ORDINANCE NO. 15-3490

**AN ORDINANCE ESTABLISHING 153.400 TO 153.406 OF THE CODE OF
ORDINANCES TO CREATE REGULATIONS FOR
PLANNED MIXED USE ZONING DISTRICTS**

WHEREAS, the Village of Silverton's 2008 Comprehensive Plan contemplates the establishment of a mixed use zoning district at the eastern entranceway to the Silverton community; and

WHEREAS, the Village of Silverton regulates the land use through the Zoning Code; and

WHEREAS, the Village Council of Silverton seeks to assist its business community to grow, compete, and flourish in the Silverton community and seeks to expand the community's tax base to ensure the Village is able to meet the current and future service needs of Silverton; and

WHEREAS, the Village Council of Silverton initiated a zoning code text amendment with the adoption of Resolution 15-719 on October 15, 2015; and

WHEREAS, the Planning Commission conducted a public hearing on this zoning code amendment on November 5, 2015, and made a recommendation to Village Council to approve the proposed Planned Mixed Use District (PMUD) sections as a new addition to the Silverton Zoning Code; and

WHEREAS, Village Council conducted a public hearing on Planning Commission's recommendation on December 3, 2015; and

WHEREAS, Village Council read the ordinance for the first time following the public hearing on December 3, 2015 and read it a second time and adopted it on December 10, 2015; and

WHEREAS, the adoption of the proposed PMUD is in the best interests of the health, safety, and general welfare of the Village, is consistent with good land-use and planning principles, and comports with the vision contemplated in the 2008 Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Silverton, Ohio, that:

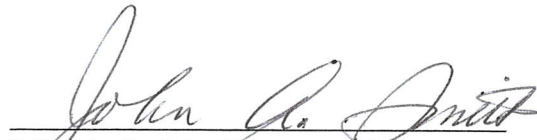
SECTION I. To add sections: "Sections 153.400 to 153.406 of the Municipal Code of Ordinances, which are to be added to and amends the Municipal Code of Ordinances, read as follows: See attachment A made a part herein of this ordinance."

SECTION II. This Ordinance shall take effect and be in force from and after its passage and approval at the earliest time provided by law.

First reading December 3, 2015.


Second reading December 10, 2015.

PASSED this 10th day of December, 2015.



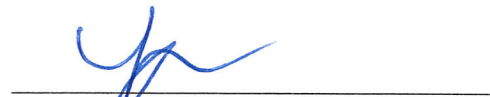
John A. Smith, Mayor

ATTEST:



Thomas M. Carroll, Village Manager

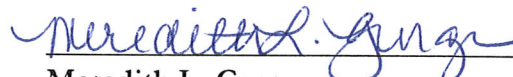
Approved as to form:



Bryan E. Pacheco, Village Solicitor

CERTIFICATION:

I, Meredith L. George, Clerk of Council of the Village of Silverton, County of Hamilton, State of Ohio; do hereby certify that there is no newspaper published in said municipality and that publication of the foregoing Ordinance No. 15-3490 has been duly made by posting true copies in three (3) of the most public places in said municipality, as determined by Council as follows: 1) Parkview Lane at Railroad; 2) Silverton Municipal Building and 3) The Village of Silverton's Website. Said posting was for a period of fifteen days commencing December 15, 2015.



Meredith L. George
Clerk of Council of Silverton, Ohio

(PMUD) PLANNED MIXED USE DISTRICT

§ 153.400 PURPOSE.

(A) It is the purpose and intent of this mixed-use district to permit and encourage the orderly, cooperative and flexible development and expansion of certain medical, office, retail and residential land uses in a planned environment. It is further the intent of this district:

- (1) To insure compatible relationships between land use activities;
- (2) To insure the compatible orientation of one building to another in regard to building bulk, architecture and open space;
- (3) To provide for visually pleasing and functional treatment of open areas;
- (4) To provide for an efficient and safe circulation system for pedestrians, bicycles and vehicles;
- (5) To provide adequate and flexible parking space for immediate and future needs;
- (6) To insure that signs are adequate, but properly controlled to prevent them from detracting from the appearance of the development;
- (7) To encourage cooperation among individual owners, and/or developers to achieve the above listed objectives;
- (8) To permit flexibility of design in the placement and use of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site characterized by special features of geography, topography, size or shape; and
- (9) To provide flexibility in the application of certain provisions of this Zoning Code.

(B) Because of the special characteristics of a planned mixed-use unit district, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this subchapter and those of other subchapters in this chapter, the provisions of this subchapter shall prevail for the development of land for planned mixed use district developments.

§ 153.401 PERMITTED USES.

(A) Only those uses expressly permitted in this district under this subchapter may be

proposed for development under this planned mixed use district approach.

(B) Permitted uses.

- (1) Banks and Financial Institutions
- (2) Bar, Tavern, or Cocktail Lounge
- (3) Office.
- (4) Medical Facility (Outpatient).
- (5) Laboratory (Medical, Dental, Optical).
- (6) Residential.

(a) Single-Family Dwellings. Detached single family dwellings existing at the time of the creation of this zoning district shall be permitted by right and may be re-built on the same lot in the event of partial or complete damage. The building footprint for any re-built single-family dwelling shall not exceed ten percent (10%) (square footage) of the original building footprint.

(i) The construction of new detached single family dwellings occurring after the enactment of this zoning district shall be prohibited.

(b) Multiple-Family Dwellings

- (7) Retail Sales (Business).
- (8) Restaurant.

(a) Drive-thru restaurants shall be prohibited within a PMUD development.

(C) Uses Permitted as an Accessory Use. The following uses may be permitted only as an accessory use to a principally permitted use listed in § 153.401.

(1) A pharmacy is permitted when enclosed in the structure containing the principal use.

(a) Free-standing detached pharmacies shall not be permitted.

(2) Gas Station.

§ 153.402 DEVELOPMENT STANDARDS.

This planned mixed use zoning district allows for a master planned blend of commercial and residential uses within a property, area or building. Development proposed under this zoning district shall comply with the development standards herein and any other applicable zoning regulation or standard provided in this zoning code. Development standards shall include, but not be limited to the following:

- (A) Minimum Lot Size. There shall be no specific minimum lot area required in this planned mixed use district except that there shall be sufficient area to satisfy any off-street parking loading requirements as established in this zoning code.
- (B) Height. Structures shall provide for adequate light and air, and shall provide for considerations of solar access from adjacent properties. The maximum height of a principal structure located in this district shall be fifty five (55) feet and contain no more than four occupied stories.
- (C) Setbacks.
 - (1) Principal buildings may have a build-to line of zero feet except that the front or corner side street facades of such buildings may be set back to accommodate pedestrian oriented outdoor uses and amenities which the as determined are appropriate to an urban setting, such as outdoor patio dining areas, plazas and courtyards, fountains, public art, entry forecourts, and landscaping.
 - (2) The scale and relationship to the development pattern of adjoining property shall be used to evaluate the required setback. Design emphasis shall be placed on enhancing a pedestrian environment with adequate sidewalk width, street trees, and pedestrian scaled signs and building façades.
 - (3) This planned unit development review process shall be used to assure that buildings are designed and oriented on lots to provide adequate light and air, assure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development.
- (D) Lot Coverage. There shall be no specific maximum lot coverage in this zoning district except as follows:
 - (1) Sufficient space shall be provided to satisfy off-street parking and loading area requirements.
 - (2) Undeveloped areas and redeveloped areas shall be designed with low impact development principals where possible.

(3) Standards for open space are met.

(E) Common open space. A minimum of five percent (5%) of the total land area developed in any planned mixed use development project shall be reserved for common open space for the users of the area being developed.

(F) Site Planning. The location of structures and other site improvements shall create a pedestrian-oriented environment with safe, pleasant, convenient, and accessible pedestrian routes to public sidewalks, transit facilities, and adjacent uses. Site planning shall incorporate the following when feasible:

(1) Structures shall be sited along street frontages of sites with parking in the rear or in limited circumstances to the side. Placing parking areas behind rather than in front of buildings helps preserve an attractive streetscape and improves pedestrian access to surrounding activities and uses. It also provides an urban border for the street.

(2) Placement of structures, entrances, and open space areas, such as plazas and courtyards, shall be oriented to provide direct access to public sidewalks, and provide midblock corridors and streets to the maximum extent possible to facilitate pedestrian access and movement between adjacent uses.

(3) Buildings shall be arranged to create a sense of unity and overall harmony with adjacent structures. A visual link between separate structures can be established through the use of an arcade system, trellis, or similar feature.

(4) Buildings shall be sited in a manner that maximizes visibility of plazas, courtyards, streets, and alleys to provide opportunities for people engaged in their normal behavior to observe the spaces around them.

(5) The location of outdoor spaces shall have clear, recognizable shapes that reflect careful planning and are not simply left over areas between structures. Such spaces shall provide pedestrian-oriented amenities such as shaded areas, art, benches, fountains, landscaping, etc.

(G) Mixed Use Buildings Programming. Ground floor land uses situated along public street frontage shall include permitted non-residential uses. Permitted ground floor residential uses situated along public street frontage may be permitted if approved by the Planning Commission. Residential dwellings, storage and parking should be oriented at the rear or interior building frontages. Residential dwellings may be allowed above the first floor or to the rear or side of the commercial use on the ground floor.

(1) The main building entrance or entrances shall be oriented to the street or plazas, as applicable, to maximize natural surveillance and provide “eyes on the

street.” The main entries to buildings shall be clearly demarcated, visible and accessible from the street or pedestrian walkways. Main entries shall be recessed or framed by a sheltering element such as an awning, arcade, porch, or portico. Such entrances shall open directly to the outside and shall not require a pedestrian to first pass through a garage, parking lot, or loading area to gain access to the entrance from the street. Secondary building entries may be from parking areas.

(2) All residential dwellings fronting on streets shall have a main entrance opening onto the front or corner side façade of the dwelling at the ground floor level. Such an entrance shall open directly to the outside. The entrance may be above grade level through a porch, stoop, portico, or similar architectural feature. Ground floor single-family attached dwellings fronting on a street shall have separate entries directly from the sidewalk or a pedestrian walkway. Upper story and ground floor residential dwelling units in a multifamily or mixed-use building fronting on streets may share one or more entries accessible directly from the street.

(3) Multifamily residential buildings with façades over one hundred fifty (150) feet in length facing a street frontage shall provide a minimum of two or more pedestrian building entrances on that frontage.

(4) Entrances to residential units shall be physically separated from the entrance to the permitted commercial uses and clearly marked with a physical feature incorporated into the building or an appropriately scaled element applied to the façade.

(5) Structures and buildings with ground floor residential uses shall have a front and corner side yards of at least five feet, but no greater than ten (10) feet. Stairs, landings, patios, unenclosed porches and architectural entry features, landscaping and similar features may occupy such yards.

(H) Mass, Scale and Façade.

(1) The mass and scale of a new development shall be compatible with adjacent neighborhoods and surrounding developments and not overwhelm them with disproportionate size or a design that is out of character or obstructs solar access.

(2) Building scale shall be reduced through the proper use of window patterns, structural bays, roof overhangs, awnings, moldings, fixtures, and other details that promote a human scale.

(3) Building design shall avoid large monotonous façades, long straight-line building fronts, plain box shapes, and barren exterior treatment. All building façades visible from streets or public areas such as plazas shall be highly articulated, and incorporate the chosen design theme in a consistent manner.

(4) Exterior Building Materials. It is encouraged that the front and two side elevations of all buildings and structures be constructed of brick, architectural block or architectural precast concrete. Painted or natural utility concrete panels or masonry units should be confined to rear elevations and in loading dock areas where applicable. Vinyl and aluminum siding is prohibited on all new or remodeled principal and accessory structures in this zoning district.

(I) Open Space.

(1) Functional use of open space should be developed in favor of placement of landscaping in unusable areas or passive landscape area.

(2) The design of the common usable open space shall complement the street pedestrian realm with plazas, pocket parks, public gathering spaces, street furniture, multi-purpose drainage facilities and landscaping.

(3) Nonresidential and mixed-use projects are encouraged to incorporate plazas and courtyards, which are oriented to the public realm/sidewalks, into their design. Buildings may be clustered to create usable pedestrian areas.

(4) The design shall provide visual and physical cues that demark the public space from the private space.

(5) To integrate new buildings within the surrounding area, such buildings are encouraged to provide passageways that allow for light and air to adjacent buildings.

(6) In mixed-use residential and residential projects, common usable open space shall be provided in large, meaningful areas that are visible from the residential dwellings they serve.

(7) Common open space areas shall be convenient to the majority of dwellings and shall contain amenities appropriate to the project's size.

(8) In mixed use and residential projects, private usable open space shall be contiguous to the dwelling unit it serves and be screened from public view for privacy. All balconies and patios that front a public street shall be designed to screen items being stored on the balcony or patio.

(9) Rooftop open space may be used as common usable open space or private usable open space, when directly accessible to the dwelling unit(s) it serves.

(J) Pedestrian Orientation.

- (1) Windows on public street frontages should be at a height that enables pedestrians to easily view retail products and services within the building.
- (2) Darkly tinted and mirrored windows that obstruct two-way visibility are prohibited on the ground floor facing streets and pedestrian corridors.
- (3) Pedestrian linkages between buildings and uses shall include features such as walkways, corner entrances, paseos, outdoor patios, water features, benches and tangible public art in mixed-use developments.

(K) Privacy for Residences.

- (1) Windows should be oriented away from loading, service, recycling and solid waste disposal areas.
- (2) Views from public right-of-way or other businesses or residences into primary living areas should be avoided by:
 - (a) locating residences on the upper floor(s);
 - (b) orienting windows away from other adjacent windows;
 - (c) using translucent, louvered or offset windows;
 - (d) incorporating privacy screening with landscaping, fencing or in combination with garden walls for outside private open space areas.
- (3) To the extent residential windows face the windows of an adjacent dwelling unit, the windows shall be offset or incorporate other features to provide privacy.

(L) Treatment Adjacent to Residential Districts.

- (1) To provide privacy for adjacent dwelling units, windows on the second and higher floors of buildings, which directly face or abut residential zones, should be designed either as translucent, louvered, offset from existing residential windows, or utilizing another solution to achieve privacy for the adjacent dwelling units.
- (2) Parking areas shall be located and designed to be convenient in order to minimize parking problems in adjacent residential neighborhoods.
- (3) Building façades and garages that face existing dwelling units shall be designed to be compatible with the setbacks and scale of the existing development.

(M) Yards/Setbacks.

(1) Buildings with ground floor residential uses shall have a maximum front yard and corner side yard of ten (10) feet to accommodate stairs, landings, porches, covered architectural entry features, and similar building features.

(2) When provided, the front or corner side yard shall include landscaping or a hard-surface expansion of the sidewalk. Walkway connections to building entrances shall include special paving treatment or materials. The use of awnings, canopies, and arcades shall be incorporated as appropriate to provide visual interest, shade, and protection of pedestrians from the elements.

(3) All other buildings shall generally have no required yard and be located adjacent to the sidewalk to facilitate pedestrian access to the public realm. Portions of the front or corner-side street façades may be set back to allow for pedestrian-oriented outdoor areas and amenities only, such as plazas and courtyards, outdoor patio dining areas, public art, fountains, entry forecourts, landscaping, or other amenities appropriate to an urban setting. When provided, such yards shall generally be no more than ten (10) feet, except where ground floor building space is occupied by retail or other pedestrian-oriented uses with entrances opening directly to a plaza or courtyard. In such cases, the plans may allow for the maximum front or corner-side yard to be extended.

(N) Other Site Development Standards

(1) Utility requirements. All public and private utility facilities and structures required to be newly constructed or relocated as a result of the project shall be placed underground within the project area and within any public right-of-way located adjacent to the project boundaries. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if it is determined that such exemption will not violate the intent or character of the proposed planned development.

(2) Outdoor lighting standards. All external light fixtures and mounting structures shall conform to the standards set for in §§ 153.164 and 153.176.

(3) Access control requirements. General standards for parking areas, circulation, and access shall be incorporated as part of the site plan following the standards set forth in § 153.165 including those applicable off-street parking and loading facilities standards contained in §§ 153.170 through 153.187.

(4) Traffic impact study. A traffic impact study shall be a requirement for the Stage II Preliminary Development Plan application if the expected trip generation of the land use is 100 or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. The proposed project's land uses as provided for on the

Stage II Preliminary Development Plan shall be used to calculate any traffic impact study analysis. The traffic impact study standards set forth in § 153.166 shall apply.

(5) All permitted uses in the PMUD district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

§ 153.403 STAGE I CONCEPT DEVELOPMENT PLAN.

(A) Application for Concept Development Plan Approval. In order to allow the Planning Commission and the applicant to reach an understanding on basic design, land usage and other elements of the proposed mixed use project, the applicant shall submit an application for a planned mixed use development on a form proscribed by the Village and the application fee, along with 12 copies of the following contents no less than 30 days prior to the next regularly scheduled Planning Commission meeting. The contents of the Stage I Concept Development Plan shall include:

(1) A detailed explanation of the nature and intensity of each proposed development pod within the project area. At a minimum, the applicant shall provide a statement detailing the anticipated number of full time equivalent employees, hours of operation, loading / unloading methods and any other pertinent detail related to the proposed business operations proposed for the project area.

(2) Elevation plan drawings illustrating general dimensions and building massing proposed for the development.

(3) An area map showing adjacent property owners and existing uses within three hundred (300) feet of the project boundaries.

(4) A legal description of the metes and bounds of the parcel(s) encompassing the entire proposed project area.

(5) A preliminary development plan drawn approximately to scale, though it need not be to the precision of a finished engineering site plan drawing, and it shall clearly show the following:

(a) The existing topographical features of the site;

(b) The location of the various metes and bounds of the parcel(s);

(c) The general outlines of the interior private or public roadway system, the proposed access points for the project and all existing rights-of-way

and easements, whether public or private;

(d) Delineation of the various development pods indicating for each pod its general size and composition in terms of total number of structures;

(e) The interior common open space feature(s) including an on-site pedestrian connectivity plan indicating connection points to the adjacent public sidewalk network;

(f) Delineate the proposed parking field areas for the site.

(g) Where the portions of the site are subject to flooding, the map shall indicate extent and frequency by delineating the limits of any flood plain areas or flood way areas as determined by the most current FEMA Flood Insurance Maps;

(h) Indicate the method for storm water control for the site. If a stormwater basin or underground facility is proposed, indicate the preliminary location and size of the stormwater facility.

(i) Principal ties to the public utilities including water supply and sewage disposal;

(j) Provide a statement of the availability of other community facilities, such as schools, fire and police protection services, and cultural facilities, if any, and how these facilities are affected by this proposal;

(k) Provide a statement evidencing how the applicant's proposed land uses and overall project proposal meet existing and projected community requirements set forth in the Silverton Comprehensive Plan and any other applicable Village planning document;

(l) Provide a statement as to how common open space is to be utilized, owned and maintained;

(m) Provide a preliminary approach to any required buffering or screening required on the site.

(n) If the development is proposed to be staged, provide a general indication of how the staging is to proceed.

(o) The application shall indicate the project design team members including but not limited to the project architect, civil engineer and landscape architect.

(B) All application and permit fees shall be paid in advance as separately set forth in the zoning fee schedule adopted by Council. All costs incurred by the Village in reviewing PMUD plans, including professional consulting analysis, shall be billed to applicant and payable upon receipt.

(C) All permits and/or approval for permits for necessary curb cuts from state and county agencies must be secured before the application is submitted to the city.

(D) Planning Commission review. The Planning Commission shall review the Stage I Concept Development Plan and its related documents, and shall approve or deny the Stage I Concept Development Plan for completeness of the minimum plan contents set forth in this division. No public hearing is required for a Stage I Concept Development Plan review.

(E) Preparation of the Stage II Preliminary Development Plan. Upon approval by the Planning Commission that the Stage I Concept Development Plan requirements have been fulfilled, the applicant may proceed with preparing the Stage II Preliminary Development Plan. In the event the Planning Commission denies a Stage I Concept Development Plan, the applicant may resubmit a new plan correcting the deficiencies outlined by the Planning Commission.

§ 153.404 STAGE II PRELIMINARY DEVELOPMENT PLAN.

Application for Stage II Preliminary Development Plan approval shall be made to the Planning Commission no less than 30 days prior to the next regularly scheduled Planning Commission meeting and shall be accompanied by 12 copies of the following information prepared and stamped by a professional civil engineer registered in the State of Ohio.

(A) Stage II Preliminary Development Plan Application Contents. The contents of a Stage II Preliminary Development Plan application shall, at a minimum, include the following:

- (1) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within two hundred (200) feet of applicant's property.
- (2) A topographic map showing contour intervals of not more than five feet of elevation shall be provided.
- (3) A preliminary development plan including the following information:
 - (a) Title of drawing, including name and address of applicant;
 - (b) North point, scale and date;

- (c) Boundaries of the property plotted to scale;
- (d) Existing watercourses;
- (e) A preliminary development plan showing location, proposed use and height of all buildings; location of all buildings; location of all parking and truck loading areas, with ingress and egress drives thereto; location and proposed development of all open spaces, including parks, playgrounds, and open reservations; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; descriptions of method of sewage disposal and location of such facilities; location and size of all signs; location and design of street and parking lighting, and the amount of building area proposed for residential and non-residential uses, if any.
- (f) A transparent overlay showing all soils, areas, and their classifications, and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and tree coverage.
- (g) The zoning district designation for all abutting properties.

(4) A traffic impact study shall be required as provided for in §153.166.

(5) A conceptual landscape plan shall be provided addressing any project gateways, streetscaping, parking lot landscaping, common open space landscaping, buffer plantings, screening and other required site landscape or buffer elements.

(6) The floor plans, elevations and cross sections for all buildings proposed for the project.

(B) PMUD Development Agreement. The Zoning Enforcement Officer shall provide the Planning Commission with a draft of the PMUD Development Agreement. The development agreement will provide for various development related items, including, but not limited to:

- (1) PMUD waivers as mutually negotiated between the Village and the Applicant.
- (2) Operational details of the proposed uses for the site.
- (3) Site inspection details and procedure.

(4) Project construction phasing details.

(C) Standard of Review for Stage II Consideration of Approval. The Planning Commission review of a Stage II Preliminary Development Plan shall include, but is not limited to, the following considerations when applicable:

(1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.

(2) Adequacy and arrangement of pedestrian traffic access and circulation including: separation of pedestrian from vehicular traffic and pedestrian convenience.

(3) Location, arrangement, appearance and sufficiency of off-street parking and loading.

(4) Location, arrangement, size and placement of the lot layout, buildings and lighting.

(5) Arrangement of landscape features.

(6) Adequacy of storm water and sanitary waste disposal facilities.

(7) Adequacy of structures, roadways in areas with moderate to high susceptibility to flooding and ponding and/or erosion.

(8) In its review, the Planning Commission may consult with representatives of any appropriate county, federal and state agencies as it relates to the proposed project. The Planning Commission may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

(D) The Applicant shall also conform to all other standards, regulations and requirements set for in the Site Plan chapter of the Zoning Code consisting of § 153.160 through § 153.166. In the event a conflict exists between a standard, regulation or requirement found in § 153.160 through § 153.166 and this PMUD chapter, the standard, regulation or requirement in this PMUD chapter shall control.

(E) Planning Commission Action.

(1) Within 45 days of the receipt of a complete Stage II Preliminary Development Plan application, the Planning Commission shall act on it by holding a public hearing pursuant to the procedure set forth in § 153.034.

(2) After a public hearing has been held, the Planning Commission shall issue a

formal recommendation to the Village Council regarding the PMUD project application. The Planning Commission shall issue one of the following recommendations: recommend approval, recommend approval with conditions or modifications or they may recommend denial of the application.

(3) As a part of their recommendation to the Village Council, the Planning Commission may recommend one or more edits to the PMUD Development Agreement.

(F) Village Council action.

(1) Within 45 days of the issuance of the Planning Commission recommendation, the Village Council shall act on the application by holding a public hearing pursuant to the procedure set forth in § 153.034.

(2) Following the public hearing, Council shall either approve, disapprove or modify the Stage II Preliminary Development Plan and accompanying PMUD Development Agreement in conformity with the goals of the Silverton Comprehensive Plan and the Purpose Statements set forth in this PMUD chapter. By Ordinance, Council may affirm the recommendation of the Planning Commission with or without conditions, modify the recommendation or disapprove a favorable recommendation of the Planning Commission by a majority vote of its members.

(3) Council may reverse a decision of the Planning Commission recommending disapproval of a Stage II Preliminary Development Plan by the affirmative vote of two-thirds of Council present for the Stage II Preliminary Development Plan vote.

(G) PMUD Development Agreement Action. Upon an approval of the Stage II Preliminary Development Plan, the Applicant shall cause the final PMUD Development Agreement document to be recorded at the Hamilton County Recorder's office no later than 90 days upon the date the PMUD zoning map amendment is legal as evidenced by the running of the mandatory 45 day referendum period.

(1) In the event a valid referendum petition has been submitted and the question is certified as a ballot issue being placed on the next eligible general election, the Applicant shall not have the responsibility to record the PMUD Development Agreement document until such time as the PMUD may be approved by the voters at the next eligible general election.

(H) Modification of an Approved Stage II Preliminary Development Plan.

(1) Minor changes to an approved Stage II Preliminary Development Plan. Minor changes to an approved Stage II Preliminary Development Plan proposed by the Applicant may be reviewed and decided by the Zoning Enforcement

Officer, provided such changes comply with all applicable requirements of this Zoning Code and all other federal, state, county or township laws and regulations.

(a) The Zoning Enforcement Officer may refuse to act on any or all proposed changes to an approved Stage II Preliminary Development Plan. In this instance, the Applicant is required to follow the procedure for a Major Change to the plan as set forth in this section.

(2) Major changes to an approved Stage II Preliminary Development Plan. If, in the site development, it becomes apparent that certain elements of the plan, as it has been approved by the Council, are not feasible and are in need of modification, the applicant shall then present a proposed solution to the Planning Commission. A public hearing shall be held consistent with the procedure set forth in § 153.034. The Planning Commission shall then forward a recommendation on the modification request to Village Council.

(a) Upon receiving a recommendation from the Planning Commission, Village Council shall hold a public hearing consistent with the procedure set forth in § 153.034 to consider the applicant's request to modify the approved Stage II Preliminary Development Plan.

(b) When reviewing and considering the modification request, the Planning Commission and Village Council shall determine whether or not the modified Stage II Preliminary Development Plan is still consistent with the "intent" of this Zoning Code and consistent with the original intent of the overall PMUD plan.

§ 153.405 STAGE III FINAL DEVELOPMENT PLAN.

Application for Stage III Final Development Plan approval shall be made to the Planning Commission no less than 30 days prior to the next regularly scheduled Planning Commission meeting and shall be accompanied by 12 copies of the following information prepared and stamped by a professional civil engineer registered in the State of Ohio. The submitted Stage III plan may include the entire site or may involve a phased approach by submitting one or more development pods for consideration of approval. The Stage III plan submission should be at a construction drawing level of detail. These Stage III plans will be used by the Village to inspect for conformance to the approved plans at various points during construction and post construction.

(A) Stage III Final Development Plan Application Contents. The contents of a Stage III Final Development Plan application shall, in addition to the items required at the Stage II submittal, the following items:

(1) The applicable site plan application contents required under § 153.163 of the Zoning Code.

(2) Construction Schedule and Phasing

(3) The Planning Commission may require additional drawings to supplement the plan contents above when more information is needed or when special conditions occur.

(4) The Applicant shall also conform to and address all other standards, regulations and requirements set for in the Site Plan chapter of the Zoning Code consisting of § 153.160 through § 153.166. In the event a conflict exists between a standard, regulation or requirement found in § 153.160 through § 153.166 and this PMUD chapter, the standard, regulation or requirement in this PMUD chapter shall control.

(B) Standards of Review for Stage III Final Development Plans. The Planning Commission review of a Stage III Final Development Plan shall include, but is not limited to, the following considerations when applicable:

(1) Satisfaction of the review criteria items provided in § 153.162.

(2) The Stage III plans comply with all of the conditions set forth in the PMUD Development Agreement.

(3) The Stage III plans are in accordance with the design criteria and provisions of this zoning code which may apply.

(4) All other agreements, contracts, deed restrictions dedications, declarations of ownership and other required documents are in acceptable form and have been executed.

(5) All required fee payments have been made.

(6) The location, design, size and uses will result in an attractive, healthful, efficient and stable environment for commerce and/or residential development; that the design size and use are consistent with the Silverton Comprehensive Plan and any other land use plans adopted by the Planning Commission or Council.

(C) Upon approval, the Planning Commission shall endorse its approval on a copy of the plan and shall forward it to the Zoning Enforcement Officer, who shall then issue a zoning permit to the applicant if the project conforms to all other applicable requirements.

(D) Upon disapproval, the Planning Commission shall so inform the Zoning Enforcement Officer. It shall also notify the applicant and the Council in writing of its decision and its reasons for disapproval.

(E) Conformity to an Approved Stage III Final Development Plan. Property subject to Stage III Final Development Plan approval must be developed in strict compliance with the approved Stage III plan, inclusive of any amendments, which have received the approval of the Planning Commission.

(1) If construction and development does not conform with the approved Stage III plan, the approval of the plan shall be revoked by the Zoning Enforcement Officer by written notice of the revocation being posted upon the premises involved, and mailed to the owner at his last known address. Upon revocation of this approval, all construction activities shall immediately cease upon the site until the time the violation has been corrected.

(a) Stage III Final Development Plan Modification. In the event the Applicant requests a modification to an approved Stage III Final Development Plan, the modification request must be submitted in writing to the Zoning Enforcement Officer along with three (3) copies of the modified Stage II plan.

(b) After reviewing the modification request, the Zoning Enforcement Officer may either approve the modification request as a minor modification or may refer the modification request to Planning Commission for their review and consideration of approval. Based on the nature and intensity of the requested modification, the Zoning Enforcement Officer may request that a public hearing be held with the Planning Commission when reviewing this modification request.

(c) Major changes that would require Planning Commission review and approval would include but are not limited to:

- (i) Increases in the scope or density of land use, land area, or building size;
- (ii) The addition of uses and/or buildings not authorized by the original approval;
- (iii) The rearrangement of lot lines or building locations by more than five (5) feet;
- (iv) Changes in the character or function of access drives;
- (v) Significant changes in the concept of the development; or
- (vi) Any changes which the Zoning Enforcement Officer refuses or fails to approve.

(d) A public hearing to review a modification request shall follow the procedures and guidelines set forth in § 153.034.

(e) Any approved modification to an approved Stage III Final Development Plan must be in compliance with the spirit, purpose, and intent of this Zoning Code and must comply with the purpose and intent of the approved Stage II Preliminary Development Plan.

(F) Public Improvements Security. If the Applicant is required to install any public infrastructure at a condition of an approved plan or Development Agreement under this PMUD chapter, the Village shall require the posting of a surety bond, letter of credit or other similar performance guarantee to ensure that required infrastructure improvements within the public right-of-way are completed in the event that the project is abandoned. This security must be established prior to a zoning permit or building permit being issued. The Village may suspend the zoning permit when work is not performed as required by an approved PMUD plan.

§ 153.406 EXPIRATION AND EXTENSION OF THE PMUD APPROVAL PERIOD.

(A) All development pods approved at the Stage III Final Development Plan review shall be valid for a period not to exceed two years from the approval date of the Stage III Final Development Plan review for each respective development pod.

(B) If construction of at least twenty-five (25%) of the total cost of each development pod approved at the Stage III Final Development Plan review has not been completed within two years after the Stage III approval date, the approved final Stage II Preliminary Development Plan and accompanying Development Agreement shall be considered void, and the land shall revert to the zoning district designation in which it is located at the time of the PMUD application.

(C) If each approved development pod is not completed within two years after the date of the Stage III Final Development Plan approval and if construction of at least twenty-five (25%) of the total cost of each approved development pod has not been completed within the same two year period, the applicant may apply for a one year extension to fully complete each approved development pod. A one year extension of the initial two year plan approval period may be granted if Council finds that such extension is not in conflict with the public interest and the applicant has demonstrated substantial progress and shown good faith towards completing the project as originally approved.

(D) If Council approves a one year extension, each approved development pod shall be wholly completed within three years from the date of Stage III Final Development Plan approval. Failure to complete each approved development pod within this three (3) year period shall constitute a zoning violation under this Zoning Code and the penalty provisions set forth in § 153.027 shall apply in addition to any other remedy available by law.