

other ordinance, statute or regulation or when they establish a standard that is more restrictive than that imposed by any other ordinance statute or regulation.

(5) Shoreland Overlay District Regulations

(a) Setback from Water

1. All principal and accessory buildings shall be set back at least 75 feet from the ordinary high-water mark.
2. A setback less than 75 feet for a principle building may be allowed if all of the following apply:
 - a. The principle building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building; and
 - b. The principle building is constructed or placed within a distance equal to the average setback of the principal buildings on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater

(b) Vegetative Buffer Zone

A vegetative buffer zone shall extend the entire length of the shoreline and 35 feet inland. Existing vegetation within the vegetation buffer zone shall be maintained except as follows:

1. If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
2. Vegetation may be removed in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and that extends no more than 35 feet inland from the ordinary high-water mark.

10.82 PLANNED DEVELOPMENT DISTRICTS (PDD) (see s. 10.37(1))

The Planned Development District provides a regulatory framework to encourage improved environmental design by allowing flexibility in the development of land while insuring compliance with the basic intent of the Zoning Ordinance and with the City Master Plan. The Planned Development District has no "set" standards and specifications. Developers can propose uses or combination of uses and configurations of intensity and density of development. Through a process of Plan Commission review, public hearing and Common Council review and approval, accompanied by discussions with developers and, as appropriate, with other interested parties, an agreement is reached between the property owner and the City of Middleton. The details of this agreement constitute the zoning controls of the property. These controls have the same legal force and effect as to standard zoning requirements.

To achieve the community benefits of PDD zoning, it is generally true that the project size should be large enough to allow clustering and to establish a coherence of design. (O1459, 2/20/18)

10.83 PROCEDURE - GENERAL IMPLEMENTATION PLAN

The procedure for rezoning to a Planned Development District shall be as required for any other zoning district change under this Ordinance, except that in addition thereto the following information describing a general implementation plan shall be filed by the applicant with the Plan Commission staff:

- (1)** A map of the project area including its relationship to surrounding properties and topography and

other key features.

- (2) A statement of rationale as to why Planned Development District zoning is proposed. This shall identify barriers that the developer perceives in the form of requirements of standard zoning districts and opportunities for community betterment the developer suggests are available through the proposed Planned Development District zoning.
- (3) Brief analysis of social and economic impacts on the community of the project, and positive relationships to the Master Plan.
- (4) A general development plan of the proposed project showing at least the following information in sufficient detail to make possible evaluation against criteria for approval.
 - (a) Public and private roads, driveways and parking facilities.
 - (b) Land uses and size, arrangement and location of lots and proposed buildings or groups of buildings.
 - (c) The types, size and location of structures.
 - (d) A general utility plan.
 - (e) The location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use.
 - (f) General landscape treatment plan.
 - (g) Statistical data on size of the development, density/intensity of various parts of the development, ratio of various land uses, economic analysis of the development, expected staging, and any other plans or data required by the Plan Commission or Common Council.
 - (h) The applicant shall comply with the provisions of s. 19.04(2)(f) of this Code, if private roads are part of the development.
- (5) General outline of the intended organizational structure for a property owners association, if any; deed restrictions and provisions for private provision of common services, if any.

10.84 PLAN COMMISSION REVIEW - GENERAL IMPLEMENTATION PLAN

Following determination by the Plan Commission staff that an application is complete, and fees have been paid the matter shall be reviewed by City staff and shall then be placed on a Plan Commission agenda for concept review. Initial review is review of the project at the concept level and is not binding. The preferred procedure is for one or more iterations of Plan Commission initial review to occur prior to introduction of a formal petition for rezoning. The applicant may seek to accelerate review by introducing the rezoning petition prior to Plan Commission initial review. Whenever the required petition is introduced, the normal rezoning procedure occurs, including notice and hearing before the Plan Commission. The issues that are the subject of this public hearing are the rezoning request and the general implementation plan.

Following the required public hearing before the Plan Commission, the Plan Commission shall meet to make a determination and recommendation whether to advise the Common Council to approve the rezoning and the general implementation plan, to approve it with modifications, or deny it.

For all developments including any large retail development, a concept review meeting shall be held before both the Plan Commission and Common Council either jointly or separately. Notice of such meeting, at the applicant's expense, shall be provided by regular mail, fourteen (14) days prior to said meeting, to all owners of property within Three Thousand (3,000) feet of the subject property. Said notice shall, in addition to the nature of the project, and time and location of the meeting, provide instructions as to how to receive or view a copy of the materials provided according to Section 10.83 in

advance of the meeting.

10.85 CRITERIA FOR APPROVAL

As a basis for determining the acceptability of a Planned Development District, the following criteria shall be applied to the general implementation plan with specific consideration as to whether or not it is consistent with the general purpose and intent of the Middleton Zoning Ordinance, the Middleton Master Plan, the Middleton Parks and Open Space Plan, whether it has been prepared with competent professional expertise and guidance, whether it produces significant community benefits of an environmental design nature or otherwise that compensate for modifications in normal municipal standards.

(1) Character and Intensity of Land Use

The uses proposed and their intensity and arrangement on the site shall:

- (a) Respect the physical attributes of the site with particular concern for preservation of natural features, tree growth and open space.
- (b) Produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with development prospects for the area.
- (c) Not adversely affect the anticipated provision of school or municipal services.
- (d) Not create traffic or parking demand incompatible with the existing or proposed facilities to serve it.

(2) Economic Feasibility and Impact

The proponents of a Planned Development District shall provide evidence satisfactory to the Plan Commission and the Common Council that the project will not adversely affect the economic prosperity of the City or the values of surrounding properties.

(3) Engineering Design Standards

Streets and other ways, outdoor lighting, provision for storm water drainage, sanitary sewer service, water supply, or other similar environmental and municipal engineering considerations shall be based on appropriate standards necessary to implement the specific function and the specific situation, provided, however, that in no case shall standards be less than those necessary to achieve the public health, safety and welfare as determined by the City.

(4) Preservation and Maintenance of Open Space in a Planned Development District

- (a) Provision shall be made for the preservation and maintenance of open spaces either by public reservation or dedication to public entities or commitment to preservation by a private entity. PDD contracts shall contain specific reference to the ownership of such open space areas and to provision for maintenance.
- (b) Planned Development District Housing impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. In particular, the additional population density places demands upon City parks, recreation areas, conservancies and other open spaces. Accordingly, each dwelling unit newly established shall be required to dedicate parkland or provide fees in lieu of parkland dedication, with the choice of parkland or fees being made by the Plan Commission upon the recommendation of the Park, Recreation and Forestry Commission. If the Plan Commission determines to require dedication of land, such dedication shall be at least 1,450 square feet of land for each proposed residential dwelling unit. If the Plan Commission determines to require payment of fees in lieu of dedication of parkland, such fee shall be paid in a lump sum by the owner of the land prior to the issuance of any building permit for the land in the amount set forth in the Fee Schedule under Section 3.12. Except to the extent inconsistent with the provisions set

forth herein, parkland dedications or fees in lieu of parkland dedication, shall follow the procedures set forth in Section 19.06(3)(k) of the Middleton General Ordinances.

(5) Transmittal of Plan Commission Recommendations, Report and Related Matters

The Plan Commission's reports and recommendations shall be made in a written report to the Common Council. A complete set of maps, plans and written documentation fully describing the proposed development as recommended by the Plan Commission at a general implementation plan level shall accompany the report of the Plan Commission. The matter shall not be considered by the Council unless this documentation has a signature by the Plan Commission Secretary over a statement that the documentation is complete and that it accurately reflects Plan Commission recommendations. In a situation in which the applicant disagrees with certain recommendations of the Plan Commission and is urging the Common Council to approve with modifications, the applicant must supply documentation of those modifications to the Council prior to the matter being placed on the agenda of the Common Council.

10.86 OWNER'S CONSENT FOLLOWING COMMON COUNCIL APPROVAL

If the Planned Development District Ordinance as adopted by the Common Council provides explicitly, the area of the PDD can be segmented. Unless segmented, the owners of record of all included parcels must consent in writing within a single 30 day period following Common Council adoption in order for the PDD rezoning to take effect. If segmented, the written consent rule applies separately to each segment. Consent shall be binding upon future owners of the parcels in questions and they may not be conditioned or revocable by owners.

10.87 EFFECT OF PDD-GIP ZONING

- (1) The approval of a General Implementation Plan shall not authorize issuance of building permits. The permits may not be issued until approval by the City of the Specific Implementation Plan.
- (2) Rezoning to PDD on the basis of an approved General Implementation Plan shall revert to prior zoning if the Specific Implementation Plan is not approved within five years from date of filing under s. 10.87. Extensions may be granted for cause by the Plan Commission. Records of extensions shall be recorded in the City file on the PDD District. (O1491, 6/18/19)

10.88 FILING, EFFECTIVE DATE - GENERAL IMPLEMENTATION PLAN

When the consent signatures for lands in the parcel being rezoned are all acquired and turned in to the Plan Commission staff, the documentation on Plan Commission and Common Council action and on the General Implementation Plan and the consent signatures shall be logged in and filed by the City and the property shall be indicated as rezoned on City Zoning maps. The indication shall be PDD-GIP. The City shall record at the Dane County Register of Deeds Office an affidavit of notice of PDD zoning against all real property included in the district. This shall be done on the effective date of the PDD-GIP zoning. The City shall require the applicant to supply necessary property descriptions and to pay recording fees.

10.89 PROCEDURE - SPECIFIC IMPLEMENTATION PLAN

After the effective date of the rezoning to PDD-GIP, the applicant may file a Specific Implementation Plan with the Plan Commission.

- (1) Their precise plan for development shall contain graphic and tabular presentations at a level of detail equivalent to the level of detail of a final plat. Accompanying text information shall describe in detail the development plans, methodologies and timetables for the area covered by the Specific Implementation Plan.
- (2) The area included in a Specific Implementation Plan may be only a portion of the area included

in a previously approved General Implementation Plan.

- (3) The Specific Implementation Plan submission may include site plan and design information, allowing the Plan Commission to combine design review and review of the Specific Implementation Plan. Design review may, at the choice of the applicant, be deferred until a later time when specific site and building developments will be brought forth.
- (4) As part of submission for Specific Implementation Plan approval, the applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.
- (5) The Plan Commission or Common Council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the Specific Implementation Plan, as such may be relevant to review procedures and standards.

10.90 PLAN COMMISSION REVIEW - SPECIFIC IMPLEMENTATION PLAN

- (1) When the Specific Implementation Plan submission is deemed by Plan Commission staff to be complete, the matter shall be reviewed by staff and then placed upon the agenda of the Plan Commission for review, consideration and approval or rejection. No public hearing is required at this stage, but one or more public hearings or informational meetings may be provided optionally.
- (2) The Specific Implementation Plan submission shall be reviewed by the Plan Commission against the standards of this Ordinance, the Master Plan and the previously approved General Implementation Plan. In order to approve a Specific Implementation Plan, the Plan Commission must determine that the Specific Implementation Plan is reasonably consistent with the previously approved General Implementation Plan.
- (3) If the Plan Commission recommends approval of a Specific Implementation Plan, complete documentation describing this Specific Implementation Plan, and any contracts that the Plan Commission deems necessary for the implementation of the plan, shall be prepared, reviewed by the Plan Commission staff as complete and, when found to be complete by said Plan Commission staff, shall be placed on the agenda of the Common Council.

10.91 COMMON COUNCIL REVIEW - SPECIFIC IMPLEMENTATION PLAN

The Common Council shall consider and act on the Specific Implementation Plan after reviewing the recommendations of the Plan Commission on same. The Common Council shall approve a Specific Implementation Plan that is reasonably consistent with the previously approved General Implementation Plan.

10.92 FILING AND EFFECTIVE DATE - SPECIFIC IMPLEMENTATION PLAN

Sections 10.86 through 10.88 apply to the processing and consent signatures of a Specific Implementation Plan following approval by the Common Council. Signatures are required by property owners only in the area affected by the Specific Implementation Plan. The affidavit of zoning status need not be recorded at the SIP stage if one is duly on record from the PDD-GIP stage.

10.93 EFFECT OF SIP APPROVAL; ALTERATIONS - SPECIFIC IMPLEMENTATION PLAN

The filing of an approved Specific Implementation Plan shall authorize release of building and other land use permits to carry out development activities consistent with that approved plan.

Any subsequent change of use of any parcel or any modification of the Specific Implementation Plan shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, such change or modification constitutes a substantial alteration of the Specific Implementation Plan, the Specific Implementation Plan shall be required to be amended through the

same procedures used to approve, file and record the Specific Implementation Plan. If, in the opinion of the Plan Commission, such changes or modification do not constitute a substantial alteration of the Specific Implementation Plan, the change may be accomplished by approval of the Plan Commission. Such approved modifications shall be documented and recorded in the official file of the City on the PDD District.

Specific Implementation Plan approval lapses one year after its effective date if substantial development progress has not occurred. The Plan Commission may grant extensions for good cause.

10.94 PLANNED DEVELOPMENT DISTRICT-INFILL (PDD-I) (Repealed O1459, 2/20/18)

10.95 AIRPORT HEIGHT LIMITATIONS

(1) Statutory Authorization

This Ordinance is adopted pursuant to Wis. Stats. §114.136.

(2) Definitions

- (a) "Airport" refers to Morey Airport, which is located in Section 3, Town 7 North, Range 8 East, in the City of Middleton, Dane County, Wisconsin.
- (b) "Nonconforming use" means any structure which does not conform to the provisions of this Ordinance or an amendment thereto, as of the effective date of this ordinance.
- (c) "Person" means any individual, firm, partnership, corporation, company, limited liability company, limited liability partnership, association, joint stock associations, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (d) "Structure" means any object, including a mobile object, constructed, installed or located by a person.
- (e) "Height" means the elevation above Mean Sea Level of the top of the structure, including any appurtenance installed thereon.
- (f) "Permit" means written permission from the City of Middleton on a form provided by the municipality stating that the proposed structure site either conforms to this Ordinance or has been granted a variance, per Section (6).

(3) Airport Height Restriction Areas

All zones established by this section are as shown on the map dated September 4, 2003 entitled, "Height Limitation Zoning Map, Morey Airport, Dane County, Wisconsin," which is attached hereto and adopted as part of this Ordinance.

(4) Nonconforming Uses

(a) Not Retroactive

The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other change or alteration of any structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use, except as otherwise provided by Section 6(b). Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this Ordinance, and if such is diligently prosecuted.