

**§ 212-20. Rezoning for DD – Development Districts or other rezoning actions.**

- A. Intent. The Development District (DD) procedure provides a flexible land use and design regulation through the use of performance criteria so that development may be matched with sensitivity to the unique characteristics of a particular site, and innovative development techniques may be accommodated that might not otherwise be possible through strict application of existing zoning and subdivision requirements. The conventional use, area, form, materials, bulk, and density specifications set forth by other sections of this Land Use Code are intended to be replaced by an approved Development District (DD) for a particular site, which then becomes the basis legislatively established by the Town Board for detailed design, review and control of subsequent development within the designated site. Thus, where DD techniques are deemed appropriate through the rezoning of land to a Planned Development District by the Town Board, the set of use and dimensional specifications elsewhere in this Land Use Code are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls. While flexibility in substantive regulations is thus encouraged, it is intended that this uniform procedure and the required conformance with this Zoning Code and municipal service capability shall ensure the general welfare through equal treatment under the law, as well as precise control of all aspects of the Planned Development as approved.
- B. Objectives. In order to carry out the intent of this article, a Development District shall achieve the following objectives:
- (1) A greater choice in the types of environment, types of housing and dwelling unit types, lot sizes and community facilities available to existing and potential Town residents at all economic levels.
  - (2) More usable open space and recreation areas.
  - (3) The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.
  - (4) A creative use of land and related physical development which allows an orderly transition of land from rural to village uses.
  - (5) An efficient use of land resulting in smaller networks of utilities and streets and thereby lower costs.

- (6) A development pattern in harmony with the objectives of the Comprehensive Plan.
- (7) A more desirable environment than would be possible through the strict application of other articles of this Zoning Code.

C. Requests for rezoning.

- (1) The Town Board shall review the request for rezoning, upon submission of preliminary materials to adequately describe the scope of the project to the Town Zoning Officer. Should the Town Board decide that the proposed request for rezoning merits further consideration, the Board shall direct the applicant to proceed with a sketch plan conference, and then shall refer the proposal to the Planning Board for further review and recommendations. The Town Board shall be the lead agency for the public hearing and State Environmental Quality Review (SEQR) as required for changes in zoning. In addition, the Planning Board may schedule a separate public hearing and SEQR as part of site plan review.
- (2) Sketch plan conference. The applicant for any rezoning action shall have a sketch plan conference with the Zoning Officer, the Planning Board Chair, the Town Board Planning Liaison, and the Planning Management Officer. The purpose of this conference is to generally and informally review the proposed project, to advise the applicant as to the general process and the application requirements, and to coordinate the rezoning between the Town and Planning Boards. Rezoning actions are at the discretion of the Town Board and do not have a specified time frame within which the action must be decided.
  - (a) Upon receipt of a request from the Town Board for review of rezoning, the Planning Board shall:
    - [1] Review the proposed rezoning for compliance with the Ulysses Comprehensive Plan for development of the Town of Ulysses and may only make recommendation to approve the rezoning request following a finding that it is in conformance with the Town Comprehensive Plan;
    - [2] Review the development for the proposed site rezoning, including any proposed structures or modifications of structures using the review criteria outlined in this § 212-20 for compliance with district

regulations of the zone for which rezoning is requested and with relevant sections of this chapter, and require such changes as may be necessary to ensure compliance;

[3] Adopt a resolution recommending approval, approval with modifications, or disapproval of the proposed Development District and general site plan, and forward the same to the Town Clerk within the required time period set forth in Town Law.

(b) The Planning Board shall consider:

[1] The need within the community for the proposed use.

[2] The desirability of the proposed location.

[3] The compatibility of the applicant's proposed particular mix of land uses with the existing character of the neighborhood in which the proposed use would be located, and the impact on the future quality of the neighborhood.

[4] Safeguards proposed by the applicant to mitigate possible detrimental effects of the uses within the proposed rezoning on the entire area and on adjacent property.

[5] Safeguards proposed by the applicant to preserve existing trees and outstanding topographic or geologic features, and reduce potential for soil erosion and sedimentation.

[6] Evidence that the application is compatible with the goals of Comprehensive Plans, if any.

[7] A general statement as to how common open space is to be owned and maintained.

[8] If the development is to be phased, a general indication of how the phasing is to proceed. Whether or not the development is to be staged, the sketch plan shall show the intended total project.

[9] Evidence of the applicant's capacity to carry out the plan and the applicant's awareness of the scope of the application, both physical and financial.

- D. Requirements for rezoning plan. The applicant(s) or petitioner(s) shall submit a plan of the site to be rezoned to the Town Board which plan shall clearly show:
- (1) Property lines, including metes and bounds;
  - (2) All public streets abutting the lot or parcel;
  - (3) Site topography;
  - (4) Location and size of all existing structures and site utilities, points of ingress and egress, parking and loading areas and pedestrian facilities;
  - (5) Location of all existing streams, woodland, wetlands and other significant natural features;
  - (6) Location and size of all proposed structures and site utilities, points of ingress and egress, parking and loading areas and pedestrian facilities; and
  - (7) Other plans and specifications related to the proposed use of the site deemed reasonably necessary by the Town Board for a thorough understanding of the proposed use.
- E. Development District rezoning plan. The purpose of a Development District is to give flexibility to this chapter in order to accommodate such developments as would be beneficial to the community, but which are not now permitted in the established zoning district where the proposed project is located. These Development Districts must not be contrary to the Ulysses Comprehensive Plan or this chapter. In addition to the requirements for rezoning, a proposed Development District shall be a minimum of three acres. Site plan material submitted with the application for review by the Planning Board must be in accordance with the Town Development District application procedure, available from the Zoning Officer, and amended as necessary from time to time.
- F. Process for rezoning by Town Board.
- (1) Upon receipt of the requested recommendation from the Planning Board, the Town Board shall hold a public hearing and conduct environmental review under the State Environmental Quality Review, after which it may, at its discretion, approve the proposed rezoning request, disapprove the proposed change, or approve it with modifications. The Town may impose any conditions,

modifications, or additional requirements upon the approval as it may determine appropriate in the furtherance of this chapter and the Town Comprehensive Plan. In making its decision, the Town Board shall make an affirmative finding regarding whether or not the proposed change is in conformance with the Town Comprehensive Plan.

- (2) An affirmative vote of at least four members of the Town Board shall be required to establish the Development District if:
  - (a) The Planning Board recommends that the proposed Development District not be approved based on the Ulysses Comprehensive Plan; or
  - (b) The Planning Board recommends that the proposed Development District be approved but with modifications, including modifications of proposed allowed uses and to the proposed site plan, that the applicant is not willing to make.
- (3) The Town Board in establishing a new zoning district shall define, in writing, the boundaries of the new district, approve the site plan and list all specifications and restrictions approved for the site plan. The site plan as approved by the Town Board shall be binding on the applicant.
- (4) Upon the approval by the Town Board of a site plan submitted as part of an application or petition for the establishment of a Development District, said site plan shall be submitted to the Planning Board for consideration of final site plan approval if not previously conducted as part of the rezoning review.