

development plan and in accordance with the terms of the development plan, and to that extent said provision whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.

6.15243 All those provisions of the development plan authorized to be enforced by Plymouth Borough under this section may be modified, removed or released by the Borough Council of Plymouth Borough except grants or easements relating to the service or reequipment of a public utility

subject to the following conditions:

- (i) no such modification, removal or release of the provision of the development plan by the municipality shall affect the rights of the residents of the PRD to maintain and enforce those provisions, at law or equity, as provided in this section;
- (ii) no modification, removal or release of the provisions of the development plan by the Borough shall be permitted except upon a finding by the Borough Council following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire PRD, does not adversely affect either the enjoyment of land abutting upon or across the street from the PRD or the public interest, and is not granted solely to confer a special benefit upon any person.

6.15244 Residents of the PRD may, to the extent and in the manner expressly authorized by the provisions of the

development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the Borough to enforce the provisions of the development plan in accordance with the provisions of this Section.

6.1525 Application for Tentative Approval of
Planned Residential Development

6.15251 The application for tentative approval of a PRD shall include a written statement by the landowner or owners setting forth the reasons why, in his opinion, a Planned Residential Development would be in the public interest and would be consistent with the Comprehensive Plan for the development of the Borough of Plymouth.

6.15252 The Planning Commission of Plymouth Borough shall determine whether or not the PRD conforms with the Comprehensive Plan of Plymouth Borough and particularly the Land Use Plan in the Comprehensive Plan, and shall review the application for tentative

approval, and make recommendations to the Borough Council of Plymouth Borough.

6.15253 An application for tentative approval of a PRD shall be informative and shall contain a detailed plan consisting of the following:

6.1523531 The location, size, soil conditions and topography of the entire tract and adjacent properties;

6.1523532 The nature and interest of any and all owners of the tract, as well as the owners of all adjacent neighboring tract of land;

6.1523533 The density of land use to be allocated to parts of the tract to be developed;

6.1523534 The location and size of the common open space;

6.1523535 The specific details of the proposed home owners' organization created to own, maintain and improve the open space, along with the proposed deed restrictions, home owners' agree-

ments, etc. concerning ownership and maintenance of said open space;

6.152536 The feasibility studies of public water and public sanitary sewer lines and treatment plants, and the location and size of storm water facilities made by an engineer licensed to practice in Pennsylvania, and the recommendations of the PA. Department of Environmental Resources on the proposed water and sewer systems.

6.152537 The use, dimensions, location, architectural design and elevations of all buildings and structures, including architectural schematics;

6.152538 The covenants, restrictions, grants of easements, or any other restrictions to be imposed on the use of land, buildings and structures,

including the location of the proposed easements for public parking;

6.152539 The provisions for parking of vehicles and the location and width of all proposed streets and public and/or private rights-of-way;

6.152540 The existing zoning applicable to said tract, and the required modifications in the Borough land regulations otherwise applicable to the subject property; the owners

6.152541 The specific use of the open spaces, and the condition of said open space at such time it is turned over to the home owners' organization and the proposed dates or dates thereof;

6.152542 In the event that the application for preliminary approval calls for a development of the entire tract

over a period of time,
the time schedule pro-
posed for such develop-
ment, as well as a time
schedule showing approxi-
mately when applications
for final approval of all
sections will be filed;
all such time schedules
shall be updated annually
until development is com-
pleted and accepted, and
shall be changed only with
the approval of the Borough
Council of Plymouth Borough.

6.15254 The application for tentative and
final approval of a development
plan for a Planned Residential Devel-
opment shall be in lieu of all other
procedures or approvals, otherwise
required pursuant to the Plymouth
Borough Ordinance and Subdivision
Regulations.

6.1526 Public Hearings

6.15261 Within sixty days after the filing
of an application for tentative

approval of a planned residential development, a public hearing pursuant to public notice on said application shall be held by the Borough Council in the manner prescribed for the enactment of an amendment to zoning ordinance. The chairman or, in his absence, the acting chairman of the Borough Council may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross examine adverse witnesses.

6.15262 A verbatim record of the hearing shall be caused to be made by the Borough Council whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits

accepted in evidence shall be identified and duly preserved, or if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.

6.15263 The Borough Council may continue the hearing from time to time, and may refer the matter back to the Borough Planning Commission for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within sixty-days after the date of the first public hearing.

6.1527 The Findings

6.15271 The Borough Council, within thirty days following the conclusion of the public hearing provided for in this article, shall be official written communication, to the landowner, either:

6.152711 Grant tentative approval of the development plan as submitted;

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6.152712 Grant tentative approval subject to specified conditions not included in the development plan as submitted; or

6.152713 Deny tentative approval to the development plan.

Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within thirty days after receiving a copy of the official written communication of the Borough Council, notify such Council of his refusal to accept all said conditions, in which case, the Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Council of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions shall stand as granted.

6.15272 The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for grant, with or without conditions, or for the denial, and said communications shall set forth with particularity in what respects the development plan would or would not be in the public interest including but not limited to findings of fact and conclusions on the following:

6.152721 In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the Borough of Plymouth.

6.152722 The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property including but not limited to density,

bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;

6.152723 The purpose, location and amount of the common open space in the PRD, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;

6.152724 The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

6.152725 The relationship, beneficial or adverse, of the proposed PRD to the neighborhood in which it is proposed to be established; and

6.152726 In case of a development plan which proposed development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plans.

6.15273 In the event a development plan is granted tentative approval, with or without conditions, the Borough Council of Plymouth may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides

for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than twelve months.

6.1528 Status of Plan After Tentative Approval

6.15281 The official written communication provided for in this article shall be certified by the Chief Clerk of the Borough of Plymouth and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the zoning map in the office of the Zoning Officer.

6.1529 Application for Final Approval

6.15291 An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Borough Council and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan or part thereof shall not be required provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval.

and with any specified conditions attached thereto. The Borough Council may refer it to the Plymouth Planning Commission for recommendation.

6.15292 In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the Borough Council shall, within thirty days of such filing, grant such development plan final approval, provided it conforms with the tentative approval.

6.15293 In the event the development plan as submitted contains variations from the development plan given tentative approval, the Borough Council may refuse to grant final approval and shall, within thirty days from the filing of the application for final

approval, so advise the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:

- 6.152931 Refile his application for final approval without the variations projected, or
- 6.152932 File a written request with the Borough Council that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, or within thirty additional days if the time for applying for final approval shall have already passed at the time the landowner was advised that the development plan was not in substantial

compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within thirty days after request for the hearing is made by the landowner and the hearing shall be conducted in the manner prescribed in this ordinance for public hearings on applications for tentative approval. Within thirty days after the conclusion of the hearing, the Borough Council shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final

approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in the PRD Section.

6.15294 A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Borough Council and shall be filed of record forthwith in the office of the recorder of deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion within a reasonable time of said PRD or of that part thereof as the case may be, that has

been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner.

6.15295 In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Borough Council in writing; or, in the event the landowner shall fail to commence and carry out the PRD within such reasonable period of time as may be fixed by ordinance after final approval has been granted, no development or future development shall take place on the property included in the development plan until after the said property is resubdivided and is reclassified by enactment of an amendment to the Plymouth