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## PLANNED UNIT DEVELOPMENTS: NONCONTIGUOUS OPEN SPACE

House Bills 4666-4668 as enrolled  
Public Acts 227-229 of 2003  
Second Analysis (12-23-03)

**Sponsor: Rep. Chris Ward**  
**House Committee: Local Government  
and Urban Policy**  
**Senate Committee: Natural Resources  
and Environmental Affairs**

### ***THE APPARENT PROBLEM:***

A Planned Unit Development—sometimes called a PUD—is a planning technique used by land use planners in government to stimulate systemic construction in a community. Instead of dividing land into exclusively residential, commercial, and industrial zones, PUDs mix these and other land uses. For example, a mix of residential and commercial development together with public spaces such as parks could be developed as a PUD.

Often, planned unit developments are described as a part of a community's zoning code. If not, many communities allow them by variance or conditional use permit (although courts generally consider them to be re-zonings). The process of approval is usually quite extensive, involving a review of the site plan by the local government's planning commission, zoning board, and legislative body.

There is no 'typical PUD'. Instead, a PUD is a technique designed to achieve some flexibility in land development. However, PUDs do have common characteristics. Customarily, a large plot of land is developed under unified control, and as a whole. There is a mix of compatible uses such as commercial, residential, schools, and public spaces. Comprehensive and detailed plans for the development include the placement of the utilities, as well as the look and relationship of the buildings to one another. Often there is a program for the occupants of the district to maintain the common areas and facilities. And usually restrictive covenants prevent incompatible changes to the status and appearance of the development.

The chief benefits cited by advocates of planned unit development are the vitality inherent in mixed uses, and more green space and open area, sometimes including farmland and wildlife habitat. The

common open space is gained by clustering the residential areas, in order to preserve the natural features of the land.

Some have proposed that the open space which is an integral part of most but not all planned unit developments need not be contiguous to the boundaries of the site, and legislation has been introduced to achieve that end.

### ***THE CONTENT OF THE BILLS:***

The bills would amend three separate zoning acts to specify that unless specifically prohibited by local planned unit development regulations, a township, village, city, or county could approve a planned unit development with open space that was not contiguous with the rest of the planned unit development, if requested by the landowner.

Currently the law specifies that if a land development project is designated as a planned unit development, then regulations relating to the use of land (including permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density) must be determined in accord with the planned unit development regulations that are specified in the zoning ordinance. The bill would retain these provisions but specify 'open space areas' and then add, "and how they are to be preserved."

House Bill 4666 (MCL 125.584b) would amend the City and Village Zoning Act. House Bill 4667 (MCL 125.286c) would amend the Township Zoning Act. House Bill 4668 (MCL 125.216c) would amend the County Zoning Act.

House Bills 4666-4668 (12-23-03)

Currently under the law, a city, village, township, or county can establish in a zoning ordinance requirements to govern the construction of planned unit developments. Generally, the zoning ordinances are adopted in order to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better housing, employment, and shopping opportunities. After an ordinance is adopted, the review and approval of planned unit developments that are proposed for the community are completed by a commission appointed to administer the zoning ordinance, an official who is charged with administering the ordinance, or, by the legislative body of the local unit of government. The bills would retain all of these provisions.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes that the bills would not have a fiscal impact on the state or on local governmental units. (10-15-03)

### ***ARGUMENTS:***

#### ***For:***

Unlike spot zoning, or discrete zoning categories, planned unit developments (PUDs) promote mixed uses and open space, to better enable a lively, livable environment that preserves land and attends to aesthetics in ways that build and maintain pride of place. At times, the open land that could be part of a PUD is not contiguous—instead, it sits across the road, or down the road from the land to be developed. In these instances, community planners and developers should have the option of including the non-contiguous open space in the land use plan.

#### ***Against:***

The bills should be amended to ensure that any non-contiguous open space that is considered to be part of a PUD remain perpetually in an undeveloped state, by means of a conservation easement, a restrictive covenant, or other legal means that runs with the land. Further, the amendments should specify that any non-contiguous land that is to be used for recreational purposes be considered to be in an undeveloped state, so that the recreation opportunities would be ever available to the residents of the community.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.